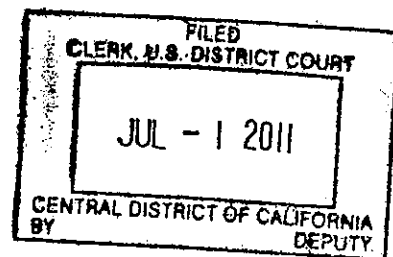


COPY



PATRICIA K. GILLETTE (SBN 74461)  
pgillette@orrick.com  
ANDREW R. LIVINGSTON (SBN 148646)  
alivingston@orrick.com  
BROOKE D. ARENA (SBN 238836)  
barena@orrick.com  
AUBRY R. HOLLAND (SBN 259828)  
aholland@orrick.com  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
The Orrick Building  
405 Howard Street  
San Francisco, California 94105-2669  
Telephone: +1-415-773-5700  
Facsimile: +1-415-773-5759  
  
Attorneys for Defendant  
SUR LA TABLE, INC.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

RALF SINGH-BISCHOFBERGER, on  
behalf of himself and all others similarly  
situated, and as an "aggrieved  
employees" *on behalf of other*  
*"aggrieved employees" under the*  
*Labor Code Private Attorneys General*  
*Act of 2004* Plaintiff,

v.

SUR LA TABLE, INC., a Washington  
corporation; and DOES 1-50, inclusive,

Defendants.

Case No. **LA CV 11-5495** DSF(FFM)

NOTICE OF REMOVAL BY  
DEFENDANT SUR LA TABLE,  
INC.

TABLE OF CONTENTS

	Page
BACKGROUND.....	1
TIMELINESS OF REMOVAL.....	2
DIVERSITY JURISDICTION UNDER THE CLASS ACTION FAIRNESS ACT .....	2
DIVERSE CITIZENSHIP OF THE PARTIES.....	3
CLASS SIZE .....	5
AMOUNT IN CONTROVERSY.....	6
NO BASIS FOR DECLINING JURISDICTION EXISTS.....	11
VENUE.....	11
NOTICE TO PLAINTIFF .....	12

TABLE OF AUTHORITIES

Page(s)

FEDERAL CASES

<i>Bell v. Preferred Life,</i> 320 U.S. 238 (1943) .....	10
<i>Burns v. Windsor Ins. Co.,</i> 31 F.3d 1092 (11th Cir. 1994).....	8
<i>DeAguillar v. Boeing Co.,</i> 47 F.3d 1404 (5th Cir. 1995).....	8
<i>Galt G/S v. JSS Scandinavia,</i> 142 F.3d 1150 (9th Cir. 1998).....	10
<i>Gaus v. Miles, Inc.,</i> 980 F.2d 564 (9th Cir. 1992).....	8
<i>Gibson v. Chrysler,</i> 261 F.3d 927 (9th Cir. 2001).....	11
<i>Goldberg v. C.P.C. Int'l, Inc.,</i> 678 F.2d 1365 (9th Cir. 1982).....	10
<i>Guglielmino v. McKee Foods Corp.,</i> 506 F.3d 696 (9th Cir. 2007).....	7, 8
<i>Industrial Tectonics, Inc. v. Aero Alloy,</i> 912 F.2d 1090 (9th Cir. 1990).....	4, 5
<i>Kantor v. Wellesley Galleries, Ltd.,</i> 704 F.2d 1088 (9th Cir. 1983).....	3
<i>LeBlanc v. Cleveland,</i> 248 F.3d 95 (2d Cir. 2001).....	3
<i>Luckett v. Delta Airlines, Inc.,</i> 171 F.3d 295 (5th Cir. 1999).....	8
<i>Lundquist v. Precision Valley Aviation, Inc.,</i> 946 F.2d 8 (1st Cir. 1991) .....	3

1	<i>Newcombe v. Adolf Coors Co.</i> ,	
2	157 F.3d 686 (9th Cir. 1998).....	5
3	<i>Sanchez v. Monumental Life Ins. Co.</i> ,	
4	102 F.3d 398 (9th Cir. 1996).....	7
5	<i>Serrano v. 180 Connect, Inc.</i> ,	
6	478 F.3d 1018 (9th Cir. 2007).....	3
7	<i>Singer v. State Farm Mutual Auto Ins. Co.</i> ,	
8	116 F.3d 373 (9th Cir. 1997).....	7
9	<i>State Farm Mut. Auto Ins. Co. v. Dyer</i> ,	
10	19 F.3d 514 (10th Cir. 1994).....	3
11	<i>The Hertz Corp v. Friend</i> ,	
12	559 U.S. ___, 130 S. Ct. 1181 (2010).....	4
13	<i>White v. FCI USA, Inc.</i> ,	
14	319 F. 3d 672 (5th Cir. 2003).....	8
15	<b>FEDERAL STATUTES</b>	
16	28 U.S.C. § 84(a), 1391 and 1446 .....	11
17	28 U.S.C. § 1332(c)(1) .....	4
18	28 U.S.C. § 1332(d).....	2, 3, 11
19	28 U.S.C. § 1332(d)(3) .....	3, 11
20	28 U.S.C. § 1332(d)(4) .....	11
21	28 U.S.C. § 1332(d)(5) .....	3
22	28 U.S.C. § 1332(d)(6) .....	6
23	28 U.S.C. § 1391 .....	11
24	28 U.S.C. § 1441(a).....	3, 5
25	28 U.S.C. § 1446 .....	2, 11
26	28 U.S.C. § 1446 (b).....	2
27	28 U.S.C. § 1453(a).....	3

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

OTHER STATUTES

Cal. Business and Professions Code § 17200..... 6

Cal. Business and Professions Code § 17208..... 6, 7

Cal. Code Civ. Proc. § 338..... 9

California Business and Professions Code § 17200 *et seq.*..... 1

California Code of Civil Procedure § 382..... 3

California Labor Code § 203..... 2, 8, 9, 11

California Labor Code § 226..... 2, 9, 10, 11

California Labor Code §§ 1194 and 1194.2..... 2

California Labor Code § 2698 *et seq.*..... 2

Class Action Fairness Act of 2005 (“CAFA”)..... 2

Cal. Labor Code §§ 1198 ..... 10, 11

Cal. Labor Code § 2699(f)(2)..... 10, 11

1 TO THE UNITED STATES DISTRICT COURT FOR THE CENTRAL  
2 DISTRICT OF CALIFORNIA AND TO PLAINTIFF AND HIS COUNSEL OF  
3 RECORD:

4 PLEASE TAKE NOTICE that Defendant Sur La Table, Inc., ("Defendant"  
5 or "Sur La Table") removes the above-captioned action from the Superior Court of  
6 the State of California in and for the County of Los Angeles to this Court pursuant  
7 to 28 U.S.C. Sections 1332 (d), 1441, 1446 and 1453 based on the following  
8 grounds.

9 **BACKGROUND**

10 1. On May 9, 2011, Plaintiff Ralf Singh-Bischofberger ("Plaintiff"), on  
11 behalf of himself and others similarly situated, filed a Complaint against Defendant  
12 in the Superior Court of the State of California, County of Los Angeles, entitled  
13 *Ralf Singh-Bischofberger, on behalf of himself, and all others similarly situated,*  
14 *and as an "aggrieved employee" on behalf of other "aggrieved employees" under*  
15 *the Labor Code Private Attorneys General Act of 2004, Plaintiff, v. Sur La Table,*  
16 *Inc., a Washington corporation; and Does 1-50, inclusive, Defendants, Case No.*  
17 *BC461167 (the "Complaint").* The Complaint served on Defendant on June 1,  
18 2011. A true copy of the Complaint is attached to this notice as Exhibit A. The  
19 First Amended Complaint ("FAC") was filed on June 22, 2011, and served on  
20 Defendant on June 21, 2011. A true copy of the FAC is attached to this notice as  
21 Exhibit B. The allegations of the FAC in the Action are incorporated by reference  
22 in this Notice of Removal without necessarily admitting any of them.

23 2. The FAC purports to assert five class-wide causes of action for relief  
24 against Defendant stemming from Plaintiff's and putative class members'  
25 employment with Defendant. Specifically, the FAC alleges causes of action for:  
26 (1) unfair competition in violation of California Business and Professions Code  
27 section 17200 *et seq.*; (2) unpaid minimum and overtime wages in violation of  
28

1 California Labor Code sections 1194 and 1194.2; (3) wage statement penalties in  
2 violation of California Labor Code section 226; (4) waiting time penalties in  
3 violation of California Labor Code section 203; and (5) civil penalties in violation  
4 of California Labor Code section 2698 *et seq.*

5 3. Defendant is informed and believes and on that basis alleges that there  
6 have been no other named defendants in this case and that no other defendant,  
7 whether named or not, has been served with or otherwise received the Complaint or  
8 FAC in the Action.

9 4. Attached hereto as Exhibit C are all other documents on file in this  
10 Action with the Superior Court of the State of California, County of Los Angeles.

11 **TIMELINESS OF REMOVAL**

12 5. The Complaint was filed on May 9, 2011, and served on Defendant on  
13 June 1, 2011. (See Proof of Service of Summons attached as Exhibit D.)  
14 Therefore, this Notice of Removal is timely as it is filed within 30 days of the first  
15 receipt by Defendant of a copy of the Summons and Complaint in this matter. 28  
16 U.S.C. § 1446 (b).

17 **DIVERSITY JURISDICTION UNDER THE**  
18 **CLASS ACTION FAIRNESS ACT**

19 6. Removal jurisdiction is based on 28 U.S.C. section 1332(d), the Class  
20 Action Fairness Act of 2005 ("CAFA"). In relevant part, CAFA grants federal  
21 district courts original jurisdiction over civil class action lawsuits filed under  
22 federal or state law in which any member of a class of plaintiffs is a citizen of a  
23 state different from any defendant, and where the amount in controversy exceeds  
24 \$5,000,000, exclusive of interest and costs. CAFA authorizes removal of such  
25 actions in accordance with 28 U.S.C. section 1446. As set forth herein, this case  
26 meets all of CAFA's requirements for removal, and is timely and properly removed  
27 by the filing of this Notice.

1           7.     This Court has jurisdiction over this case under CAFA, 28 U.S.C.  
2     section 1332(d), and this case may be removed pursuant to the provisions of 28  
3     U.S.C. section 1441(a), in that it is a civil class action wherein: (1) the proposed  
4     class contains at least 100 members; (2) the primary defendants are not states, state  
5     officials or other governmental entities; (3) the total amount in controversy for all  
6     class members exceeds \$5 million; and (4) there is diversity between at least one  
7     class member and at least one Defendant. 28 U.S.C. §§ 1332(d)(2), 1332(d)(5),  
8     1453(a); *Serrano v. 180 Connect, Inc.*, 478 F.3d 1018, 1021 (9th Cir. 2007) (“Once  
9     the prerequisites of § 1332(d)(5) are satisfied, CAFA vests federal courts with  
10    ‘original’ diversity jurisdiction over class actions if: (1) the aggregate amount in  
11    controversy exceeds \$5,000,000, and (2) any class member is a citizen of a state  
12    different from any defendant.”).

13                   **DIVERSE CITIZENSHIP OF THE PARTIES**

14           8.     CAFA’s diversity requirement is satisfied when at least one plaintiff is  
15    a citizen of a state different from at least one defendant. 28 U.S.C. §§ 1332(d)(2).

16           9.     This action was initially brought pursuant to California Code of Civil  
17    Procedure section 382 on behalf of a class. California Code of Civil Procedure  
18    section 382 is a state statute authorizing an action to be brought by one or more  
19    representative persons as a class action.

20           10.    For diversity purposes, a person is a “citizen” of the state in which he  
21    or she is domiciled. *Kantor v. Wellesley Galleries, Ltd.*, 704 F.2d 1088 (9th Cir.  
22    1983); *see also LeBlanc v. Cleveland*, 248 F.3d 95, 100 (2d Cir. 2001) (citizenship  
23    determined the time the lawsuit is filed); *see also Lundquist v. Precision Valley*  
24    *Aviation, Inc.*, 946 F.2d 8, 10 (1st Cir. 1991). Residence is *prima facie* evidence of  
25    domicile. *State Farm Mut. Auto Ins. Co. v. Dyer*, 19 F.3d 514, 520 (10th Cir.  
26    1994).

27           11.    Named Plaintiff Ralf Singh-Bischofberger worked for Defendant in  
28



1 Los Angeles County, California. (Exhibit B, FAC, ¶ 5). Defendant is informed and  
2 believes that Plaintiff was and is a resident of California and, therefore, a California  
3 citizen. In addition, based upon the employment allegations in the FAC, most, if  
4 not all, of the class members are citizens of California. *See* Exhibit B, FAC, ¶¶ 1,  
5 11.

6 12. For diversity purposes, a corporation “shall be deemed a citizen of any  
7 State by which it has been incorporated and of the State where it has its principal  
8 place of business.” 28 U.S.C. § 1332(c)(1). Where a corporation does business in a  
9 number of states and does not conduct the substantial predominance of its business  
10 in any single one, the state where corporate headquarters is located is the  
11 corporation’s principal place of business. *See The Hertz Corp v. Friend*, 559 U.S.  
12 \_\_\_, 130 S. Ct. 1181, 1192 (2010) (adopting “nerve center” approach to determine  
13 corporation’s principal place of business); *see also Industrial Tectonics, Inc. v. Aero*  
14 *Alloy*, 912 F.2d 1090, 1093 (9th Cir. 1990).

15 13. At all relevant times for this removal, Defendant was not a citizen of  
16 California.

17 a. Sur La Table is a Washington corporation with its principal  
18 place of business in Seattle, Washington. *See* Declaration of Mary Jensen In  
19 Support of Notice of Removal (“Jensen Decl.”) ¶ 3.

20 b. Sur La Table’s corporate headquarters is in Seattle, Washington.  
21 *Id.*

22 c. Sur La Table’s corporate decisions are made in Seattle,  
23 Washington, including its operational, executive, administrative and policymaking  
24 decisions. *Id.* at ¶ 4.

25 d. The majority of Sur La Table’s executive officers principally  
26 conduct their business in Washington. *Id.*

27 e. The administrative functions crucial to Sur La Table’s day-to-  
28

1 day operations are conducted in Seattle, Washington. The respective officers for  
2 these departments work in Seattle, Washington, and are responsible for developing  
3 policies and protocols for Sur La Table's nationwide operations. *Id.*

4 f. A substantial predominance of Sur La Table's employees are  
5 employed outside of California. *Id.* at ¶ 5.

6 g. By virtue of the foregoing facts, Washington qualifies as Sur La  
7 Table's principal place of business. As a Washington Corporation with its principal  
8 place of business in Washington, Defendant is deemed a citizen of Washington.

9 14. Does 1 through 50, inclusive, are wholly fictitious. The FAC does not  
10 set forth the identity or status of any said fictitious defendants, nor does it set forth  
11 any charging allegation against any fictitious defendants. The citizenship of these  
12 doe defendants is to be disregarded for the purposes of determining diversity  
13 jurisdiction, and therefore cannot destroy the diversity of citizenship between the  
14 parties in this action. 28 U.S.C. § 1441(a); *Newcombe v. Adolf Coors Co.*, 157 F.3d  
15 686, 690-91 (9th Cir. 1998).

16 CLASS SIZE

17 15. Plaintiff did not specifically allege the number of employees in the  
18 putative class. However, at a minimum, Plaintiff seeks to represent the following  
19 classes: (1) all persons who, during the period beginning four years before the  
20 filing of this action and ending when final judgment is entered, clocked out for a  
21 recorded meal period of less than 30 minutes on one or more workdays without  
22 being paid an additional hour of premium wages on one or more of those workdays  
23 (the "Shortened Meal Period Class"); (2) all persons who, during the period  
24 beginning four years before the filing of this action and ending when final judgment  
25 is entered, were paid overtime wages and also received commissions and/or  
26 bonuses (the "Overtime Wage Rate Class"); (3) all persons who, during the period  
27 beginning four years before the filing of this action and ending when final judgment  
28

1 is entered, were paid meal and/or rest period premium wages and also received  
2 commissions and/or bonuses (the "Premium Wage Rate Class"); (4) all Shortened  
3 Meal Period Class, Overtime Wage Rate Class, and/or Premium Wage Rate Class  
4 members who voluntarily or involuntarily separated from their employment with  
5 Defendant during the period beginning three years before the filing of this action  
6 and ending when final judgment is entered; and (5) all Shortened Meal Period Class,  
7 Overtime Wage Rate Class, and/or Premium Wage Rate Class members employed  
8 by Defendant in California during the period beginning one year before the filing of  
9 this action and ending when final judgment is entered. *See* Exhibit B, FAC, ¶ 11.

10 16. These alleged classes potentially contain all employees in Defendant's  
11 California retail stores from May 9, 2007 to the present. Defendant employed in  
12 excess of 2,940 employees in Defendant's California retail stores during the alleged  
13 class period of May 9, 2007, to the present. *See* Declaration of Jeff Hadley In  
14 Support of Notice of Removal ("Hadley Decl."), ¶ 3. Accordingly, the putative  
15 class exceeds the minimum size of at least 100 proposed plaintiffs in the aggregate.

16 **AMOUNT IN CONTROVERSY**

17 17. Pursuant to CAFA, the alleged amount in controversy in this class  
18 action exceeds, in the aggregate, five million dollars (\$5,000,000). 28 U.S.C.  
19 § 1332 (d) (6) (under CAFA, claims of individual class members aggregated to  
20 determine if amount in controversy exceeds \$5,000,000). The FAC seeks to  
21 recover all shortened meal period wages, overtime wages calculated with bonuses  
22 and/or commissions, meal and/or rest period premium wages calculated with  
23 bonuses and/or commissions, waiting time penalties, wage statement penalties, and  
24 penalties for failure to provide suitable seats. (Exhibit B, FAC, ¶¶ 38, 44-46, 53,  
25 63-64, Prayer for Relief). In addition to alleging Labor Code violations, Plaintiff  
26 also seeks to recover under Business and Professions Code section 17200, which  
27 has a four-year statute of limitations pursuant to Section 17208. (*Id.*, ¶¶ 11, 35-36,

1 Prayer for Relief.) Plaintiff also seeks to recover attorneys' fees. (*Id.*, ¶¶ 36, 38,  
2 53, 64, Prayer for Relief.) As set forth below, the amount in controversy implicated  
3 by these class-wide allegations exceeds five million dollars.

4 18. "[W]here it is unclear or ambiguous from the face of a complaint  
5 whether the requisite amount in controversy is pled," the defendant only needs to  
6 establish by a "preponderance of the evidence" that the alleged claims exceed the  
7 jurisdictional minimum. *See Guglielmino v. McKee Foods Corp.*, 506 F.3d 696,  
8 699 (9th Cir. 2007). Here, Plaintiff conclusively alleges in his complaint, without  
9 support, "based on Plaintiff's information and belief that no class member has a  
10 claim that places more than \$75,000 in controversy and that the aggregate claims of  
11 class members place less than \$ 5 million in controversy." Exhibit B, FAC, ¶ 3.  
12 However, Plaintiff does not allege a total dollar amount in controversy in the  
13 remainder of the FAC, including not in the FAC's Prayer for Relief. *See* Exhibit B,  
14 FAC, Prayer for Relief. The amount in controversy is therefore unclear from the  
15 face of the complaint. *See Guglielmino*, 506 F.3d at 700-701 ("because the  
16 allegation in the Jurisdiction and Venue section is not repeated in the Prayer for  
17 Relief and does not take account of attorneys' fees, accounting of moneys, or  
18 payment of back taxes and benefits, the complaint fails to allege a sufficiently  
19 specific total amount in controversy ... and we therefore apply the preponderance  
20 of the evidence burden of proof to the removing defendant.").

21 19. Therefore, Defendant only needs to establish by a preponderance of  
22 the evidence that the alleged claims exceed the jurisdictional minimum. *See*  
23 *Guglielmino*, 506 F.3d at 700-701; *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d  
24 398, 404 (9th Cir. 1996); *Singer v. State Farm Mutual Auto Ins. Co.*, 116 F.3d 373,  
25 376 (9th Cir. 1997). However, even if the amount in controversy is considered  
26 "clear" from the face of the complaint, Defendant can meet the higher burden  
27 placed on defendants, and prove with "legal certainty" that the jurisdictional  
28

1 amount is met. *See Guglielmino*, 506 F.3d at 699-700. In particular, Plaintiff's  
2 allegation that the amount in controversy is not met was not made in "good faith"  
3 and state law does not limit recovery to the amount prayed for in the complaint.  
4 Plaintiff's monetary claim is false or incompetent, and based on speculation. *See*  
5 *id.*; *see also Burns v. Windsor Ins. Co.*, 31 F.3d 1092, 1095 (11th Cir. 1994).  
6 Meanwhile, Defendant estimates that the amount in controversy has been met based  
7 on competent data outlined below.

8 20. While Defendant denies the validity of Plaintiff's claims and requests  
9 for relief thereon, the claimed damages and relief sought in Plaintiff's FAC are in  
10 excess of the jurisdictional minimum. *See Lockett v. Delta Airlines, Inc.*, 171 F.3d  
11 295, 298 (5th Cir. 1999) (finding that facts presented in notice of removal,  
12 combined with plaintiff's allegations, sufficient to support finding of jurisdiction);  
13 *DeAguillar v. Boeing Co.*, 47 F.3d 1404, 1412 (5th Cir. 1995) (stating that  
14 "defendant can show by a preponderance of the evidence that the amount in  
15 controversy is greater than the jurisdictional amount"); *accord Gaus v. Miles, Inc.*,  
16 980 F.2d 564, 566-67 (9th Cir. 1992); *White v. FCI USA, Inc.*, 319 F.3d 672, 674  
17 (5th Cir. 2003) (facially apparent from the lengthy list of damages, combined with a  
18 claim for attorneys' fees, that plaintiff's claim exceeded the jurisdictional  
19 threshold).

20 21. The requisite amount in controversy is established through an  
21 examination of the claims asserted by Plaintiff. Among other relief, Plaintiff seeks  
22 to recover on behalf of all non-exempt employees employed in California for  
23 waiting time penalties under Labor Code section 203 for alleged failure to pay all  
24 wages due at the end of employment. *See, e.g.*, Exhibit B, FAC ¶¶ 44-46, 63.

25 22. Labor Code section 203 provides for the imposition of waiting time  
26 penalties where an employer fails to pay, on the date an employee is discharged or  
27 quits, all wages then due. The maximum penalty for each former employee who  
28

was not paid all wages due upon departure is 30 days of wages. The statute of limitations for claims under Labor Code section 203 is three years. Cal. Lab. Code §203; Cal. Code Civ. Proc. § 338. During the relevant time frame, May 9, 2008 (three years prior to the date the Complaint was filed) to the present, in excess of 1,851 California non-exempt employees left Sur La Table's employ. Hadley Decl. ¶ 4. The average hourly rate of pay for the California non-exempt employees who left Sur La Table's employ during the relevant time frame is approximately \$9.92. *Id.* at ¶ 5. Assuming an eight-hour workday, multiplied by an average hourly rate of \$9.92, multiplied by 1,851 (employees who left Sur La Table's employ), multiplied by 30 days (the maximum number of days for which waiting time penalties can be imposed per former employee), the sum of Labor Code Section 203 penalties is \$4,406,860 [ $8 \times \$9.92 \times 30 \times 1,851$ ].<sup>1</sup> Thus on the alleged claims for waiting time penalties alone, the \$5,000,000 amount in controversy requirement is nearly met.

23. The FAC also alleges class claims to recover penalties for failure to provide accurate itemized wage statements. *See*, Exhibit B, FAC ¶¶ 53, 63, Prayer for Relief. For failure to provide accurate itemized wage statements, Labor Code section 226 provides for the imposition of penalties for each employee in the amount of \$50 for the first pay period and \$100 for each subsequent pay period, not to exceed \$4000 per employee, from May 9, 2010 to the present. During the relevant time frame, May 9, 2010 to the present, in excess of 1,409 California non-exempt employees were employed by Sur La Table. Hadley Decl. ¶ 6. During that same period, on average there were approximately 13.94 pay periods per class member for the putative class. *Id.* at ¶ 8. Multiplying 1,409 (the number of employees) by 1 pay period, multiplied by \$50, the first set of penalties are

<sup>1</sup> This and all calculations herein regarding damages are based on the Complaint, are made only to demonstrate that the amount in controversy in this case meets or exceeds the amount in controversy requirement of CAFA, and should not be construed as an admission with respect to any liability or damages aspect of this Action. Defendant denies that it can or should be liable for any of these sums.



1 \$70,450. Multiplying 1,409 (the number of employees) by 12.94 pay periods,  
2 multiplied by \$100, the second set of penalties are \$1,823,246. Therefore, the sum  
3 of Labor Code Section 226 penalties is approximately \$ 1,893,696.

4 24. The FAC also alleges class claims to recover penalties for failure to  
5 provide suitable seats. *See*, Exhibit B, FAC ¶ 63, Prayer for Relief. For failure to  
6 provide suitable seats, Labor Code sections 1198 and 2699(f)(2) provides for the  
7 imposition of penalties for each employee in the amount of \$100 for the first pay  
8 period and \$200 for each subsequent pay period, from May 9, 2010 to the present.

9 25. During the relevant time frame, May 9, 2010 to the present, in excess  
10 of 1,443 California exempt and non-exempt employees were employed by Sur La  
11 Table. Hadley Decl. ¶ 7. During that same period, on average there were  
12 approximately 14.33 pay periods per class member for the putative class. *Id.* at ¶ 8.  
13 Assuming Plaintiff prevails in this case, and the Court refuses all of Defendant's  
14 defenses, and even utilizing the smaller of the two penalties--\$100 for each  
15 aggrieved employee per pay period for a violation—the sum of penalties under  
16 Labor Code section 2699(f)(2) theoretically would be approximately \$2,067,819  
17 (\$100 multiplied by 14.33 pay periods multiplied by 1,443 employees).

18 26. The FAC also alleges class claims to recover unpaid overtime wages  
19 and wages for missed meal and rest periods. *See*, Exhibit B, FAC ¶¶ 35-36, 63,  
20 Prayer for Relief.

21 27. Plaintiff also seeks reasonable attorneys' fees, which this Court may  
22 consider in determining whether the amount in controversy has been satisfied. *See*,  
23 *e.g.*, *Bell v. Preferred Life*, 320 U.S. 238 (1943); *Galt G/S v. JSS Scandinavia*, 142  
24 F.3d 1150, 1155-56 (9th Cir. 1998) (including prayer for attorneys' fees in  
25 determining amount in controversy where potentially recoverable by statute);  
26 *Goldberg v. C.P.C. Int'l., Inc.*, 678 F.2d 1365, 1367 (9th Cir. 1982) (stating that  
27 attorneys' fees may be taken into account to determine jurisdictional amounts);  
28

1 *Gibson v. Chrysler*, 261 F.3d 927 (9th Cir. 2001).

2 28. By adding up the potential amount of penalties claimed by Plaintiff  
3 through the FAC under Labor Code sections 203, 226, 1198 and 2699(f)(2),  
4 Plaintiff is seeking approximately \$8,368,375 in monetary relief. Plaintiff's claims  
5 clearly exceed \$5,000,000, without even taking into account Plaintiff's other claims  
6 and requests for relief, such as attorney's fees. Again, CAFA, 28 U.S.C. section  
7 1332(d) authorizes the removal of class action cases in which, among other factors  
8 mentioned above, the amount in controversy for all class members exceeds  
9 \$5,000,000. Defendant denies the validity and merit of all of Plaintiff's claims, the  
10 legal theories upon which they are purportedly based, and the claims for monetary  
11 and other relief that flow from them. However, assuming them to be accurate for  
12 purposes of this removal only, it is readily apparent, when considered in the context  
13 of the causes of action in the FAC, that the monetary relief sought in this action  
14 exceeds the jurisdictional minimum.

15 29. Removal of this action is therefore proper as the aggregate value of  
16 Plaintiff's claims for statutory penalties, compensatory damages, and attorneys'  
17 fees is in excess of the \$5,000,000 jurisdictional requirement.

18 **NO BASIS FOR DECLINING JURISDICTION EXISTS**

19 30. There is no basis for this Court to decline jurisdiction. The CAFA  
20 permits a district court to decline to exercise its jurisdiction only in specified  
21 instances where a primary defendant is a citizen of the forum state. 28 U.S.C.  
22 § 1332 (d) (3) and (4). Here, none of the Defendants are citizens of California.

23 **VENUE**

24 31. Because Plaintiff's FAC was filed in the Superior Court for the State  
25 of California, County of Los Angeles, venue is proper in this Court pursuant to 28  
26 U.S.C. sections 84(a), 1391 and 1446.



## NOTICE TO PLAINTIFF

32. Contemporaneously with the filing of this Notice of Removal in the United States District Court for the Central District of California, written notice of such filing will be given by the undersigned to Plaintiff's counsel of record, LAW OFFICES OF SHAUN SETAREH, 9454 Wilshire Boulevard, Penthouse Floor Beverly Hills, California 90212, and a copy of the Notice of Removal will be filed with the Clerk of the Court for the Superior Court of the County of Los Angeles, California.

Dated: July 1, 2011

PATRICIA K. GILLETTE  
ANDREW R. LIVINGSTON  
BROOKE D. ARENA  
AUBRY R. HOLLAND  
Orrick, Herrington & Sutcliffe LLP

By:

AUBRY R. HOLLAND  
Attorneys for Defendant  
Sur La Table, Inc.

# **EXHIBIT A**

1 Shaun Setareh (SBN 204514)  
 2 setarehlaw@sbcglobal.net  
 3 Hayley Schwartzkopf (SBN 265131)  
 4 hayley.setarehlaw@sbcglobal.net  
 5 LAW OFFICES OF SHAUN SETAREH  
 6 9454 Wilshire Boulevard, Penthouse Floor  
 7 Beverly Hills, California 90212  
 8 Telephone: (310) 888-7771  
 9 Facsimile: (310) 888-0109  
 10 (Additional Counsel on Following Page)

11 Attorneys for Plaintiff  
 12 RALF SINGH-BISCHOFBERGER

324 CCW Emilie H. Elias  
 SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT  
 (UNLIMITED JURISDICTION)

13 RALF SINGH-BISCHOFBERGER, on  
 14 behalf of himself and all others similarly  
 15 situated, and as an "aggrieved employee" on  
 16 behalf of other "aggrieved employees" under  
 17 the Labor Code Private Attorneys General  
 Act of 2004,

18 Plaintiff,

19 vs.

20 SUR LA TABLE, INC., a Washington  
 21 corporation; and DOES 1-50, inclusive;

22 Defendants.

Case No.

BC 461167

CLASS ACTION

COMPLAINT FOR:

1. Unfair Competition (Bus. & Prof. Code §§ 17200, *et seq.*);
2. Unpaid Minimum and Overtime Wages (Lab. Code §§ 1194 and 1194.2);
3. Wage Statement Penalties (Lab. Code § 226);
4. Waiting Time Penalties (Lab. Code § 203); and,
5. Civil Penalties (Lab. Code §§ 2698, *et seq.*).

JURY TRIAL DEMANDED

CIT/CASE: BC461167 LER/DEF:  
 RECEIPT #: CCH507417073  
 DATE PAID: 05/07/11 02:37:36 PM  
 PAYMENT: \$395.00  
 RECEIVED:  
 CHECK: 395.00  
 CASH:  
 CHANGE:  
 CASH:

Singh-Bischofberger v. Sur La Table, Inc., et al.

Complaint

**ADDITIONAL COUNSEL FOR PLAINTIFF**

David Spivak (SBN 179684)  
david@spivaklaw.com  
THE SPIVAK LAW FIRM  
9454 Wilshire Boulevard, Suite 303  
Beverly Hills, California 90212  
Telephone: (310) 499-4730  
Facsimile: (310) 499-4739

Louis Benowitz (SBN 262300)  
louis@benowitzlaw.com  
LAW OFFICES OF LOUIS BENOWITZ  
9454 Wilshire Boulevard, Penthouse Floor  
Beverly Hills, California 90212  
Telephone: (310) 888-7771  
Facsimile: (310) 888-0109

1 Plaintiff Ralf Singh-Bischofberger ("Plaintiff"), on behalf of himself and all others  
 2 similarly situated, and as an "aggrieved employee" on behalf of other "aggrieved employees"  
 3 under the Labor Code Private Attorneys General Act of 2004, complains and alleges as follows:

#### 4 INTRODUCTION

5 1. Plaintiff brings class and representative action based on alleged violations of the  
 6 Labor Code, Industrial Welfare Commission Order No. 7-2001 (hereafter "the Wage Order"),  
 7 and the Business and Professions Code against defendants Sur La Table, Inc. and Does 1-50,  
 8 inclusive (collectively "Defendants"). As set forth below in more detail below, Plaintiff alleges  
 9 that Defendants are liable to him and similarly situated current and former hourly employees in  
 10 California for unpaid wages and other related relief based on their alleged failures to pay them  
 11 minimum, overtime, and meal period premium wages. Plaintiff also alleges that Defendants are  
 12 liable to him and other "aggrieved employees" based on alleged failures to furnish them with  
 13 suitable seating accommodations. Accordingly, Plaintiff now seeks to recover unpaid wages and  
 14 related relief through this class and representative private attorney general action.

#### 15 JURISDICTION AND VENUE

16 2. This Court has subject matter jurisdiction to hear this case based on Plaintiff's  
 17 information and belief that relief sought herein for Defendants' alleged violations of the Labor  
 18 Code, Wage Order, and Business and Professions Code exceeds the jurisdictional minimum of  
 19 this Court as required under California law.

20 3. This case falls outside the scope of federal question subject matter jurisdiction in  
 21 that all of the causes of action set forth herein solely arise under California law and also falls  
 22 outside the scope of federal diversity subject matter jurisdiction based on Plaintiff's information  
 23 and belief that no class member has a claim that places more than \$75,000 in controversy and  
 24 that the aggregate claims of class members place less than \$5 million in controversy.

25 4. Venue is proper in Los Angeles County pursuant to Code of Civil Procedure  
 26 Sections 395(a) and 395.5 in that liability arose in Los Angeles County because at least some of  
 27 the transactions that are the subject matter of this Complaint occurred therein and/or because  
 28 each defendant is found, maintains offices, transacts business, and/or has an agent therein.

**PARTIES**

5. Plaintiff is a former hourly employee of Defendants who worked in Los Angeles County, California during the one-year time period before the filing of this action.

6. Defendant Sur La Table, Inc. is a corporation organized under Washington law.

7. Plaintiff is ignorant of the true names, capacities, relationships, and extent of participation in the conduct alleged herein, of the defendants sued as Does 1-50, inclusive, but is informed and believes that said defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint to allege the true names and capacities of the Doe defendants when ascertained.

8. Plaintiff is informed and believes that one or more of the defendants referred to herein have employed persons and engaged in unlawful labor and payroll practices in California during the applicable limitations periods.

9. Plaintiff is informed and believes that each defendant acted in all respects pertinent to this action as the agent of the other defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and that the acts of each defendant are legally attributable to each of the other defendants.

**CLASS ALLEGATIONS**

10. This action has been brought and may be maintained as a class action pursuant to Code of Civil Procedure § 382 because there is a well-defined community of interest among the persons who comprise the readily ascertainable classes defined below and because Plaintiff is unaware of any difficulties likely to be encountered in managing this case as a class action.

11. The class and subclass members are defined as follows:

**Shortened Meal Period Class:** All persons who, during the period beginning four years before the filing of this action and ending when final judgment is entered, clocked out for a recorded meal period of less than 30 minutes on one or more workdays without being paid an additional hour of premium wages on one or more of those workdays.

**Overtime Wage Rate Class:** All persons who, during the period beginning four years before the filing of this action and ending when final judgment is entered, were paid overtime wages and also received commissions and/or bonuses.

**Premium Wage Rate Class:** All persons who, during the period beginning four years before the filing of this action and ending when final judgment is entered, were paid meal and/or rest period premium wages and also received commissions and/or bonuses.

**Waiting Time Penalties Class:** All Shortened Meal Period Class Overtime Wage Rate Class, and/or Premium Wage Rate Class members who voluntarily or involuntarily separated from their employment with Defendants during the period beginning three years before the filing of this action and ending when final judgment is entered.

**Wage Statement Penalties Class:** All Shortened Meal Period Class, Overtime Wage Rate Class, and/or Premium Wage Rate Class members employed by Defendants in California during the period beginning one year before the filing of this action and ending when final judgment is entered.

12. Pursuant to Rule of Court 3.765(b), Plaintiff reserves the right to amend or modify the class definitions with greater specificity, by further division into subclasses, and/or by limitation to particular issues.

13. The class members are so numerous that the individual joinder of each individual class member is impractical. While Plaintiff does not currently know the exact number of class members, Plaintiff is informed and believes that the actual number of class members exceeds the minimum number required for numerosity under California law.

14. Common questions of law and fact exist as to all class members and predominate over any questions which only affect individual class members, including, but not limited to:

- A. Whether Section 11(A) of the Wage Order requires Defendants to count recorded meal periods that are less than 30 minutes as "time worked" for Shortened Meal Period Class members?
- B. Whether Labor Code § 226.7(b) requires Defendants to pay premium wages to Shortened Meal Period Class members for recorded meal periods of less than 30 minutes?
- C. Whether Defendants failed to include commissions and non-discretionary bonuses in calculating regular rates of pay when paying overtime wages to Overtime Wage Rate Class members?

1 D. Whether Defendants are required to include commissions and non-  
 2 discretionary bonuses in calculating the "regular rate of compensation"  
 3 under Labor Code § 226.7(b) when paying premium wages to **Premium**  
 4 **Wage Rate Class** members?

5 E. Whether Defendants may have acquired money or property by means of  
 6 unfair competition in the forms of earned minimum, overtime, and/or  
 7 premium wages from **Shortened Meal Period Class** and **Premium**  
 8 **Wage Rate Class** members?

9 F. Whether Defendants willfully failed to timely pay earned and unpaid  
 10 wages to **Waiting Time Penalties Class** members?

11 G. Whether Defendants knowingly and intentionally failed to provide **Wage**  
 12 **Statement Penalties Class** members with accurate wage statements?

13 15. Plaintiff's claims are typical of the other class members' claims. Plaintiff is  
 14 informed and believes that Defendants have policies or practices of failing to comply with the  
 15 Labor Code, Wage Order, and Business and Professions Code as alleged herein.

16 16. Plaintiff will fairly and adequately represent and protect the interests of class  
 17 members in that he has no interests adverse to those of absent class members and is represented  
 18 by counsel with experience in employment and class action litigation.

19 17. A class action is vastly superior to other available means for fair and efficient  
 20 adjudication of the class members' claims and would be beneficial to the parties and the Court.  
 21 Class action treatment will allow a number of similarly situated persons to simultaneously and  
 22 efficiently prosecute their common claims in a single forum without the unnecessary duplication  
 23 of effort and expense that numerous individual actions would entail. In addition, the monetary  
 24 amounts due to many individual class members are likely to be relatively small and would thus  
 25 make it difficult, if not impossible, for individual class members to both seek and obtain relief.  
 26 Moreover, a class action will serve an important public interest by permitting class members to  
 27 effectively pursue the recovery of moneys owed to them. Further, a class action will prevent the  
 28 potential for inconsistent or contradictory judgments inherent in individual litigation.



1 **FIRST CAUSE OF ACTION**

2 **UNFAIR COMPETITION**

3 **(Bus. & Prof. Code §§ 17200, et seq.)**

4 **(By Plaintiff, the Shortened Meal Period Class, the Overtime Wage Rate Class,**  
5 **and the Premium Wage Rate Class)**

6 18. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

7 19. Business and Professions Code § 17200 defines "unfair competition" to include  
8 any unlawful business practice.

9 20. Business and Professions Code §§ 17203–17204 allow a person who has lost  
10 money or property as a result of unfair competition to bring a class action in accordance with  
11 Code of Civil Procedure § 382 to recover money or property that may have been acquired from  
12 similarly situated persons by means of unfair competition.

13 ***Shortened Meal Period Class***

14 21. At all relevant times, Plaintiff and Shortened Meal Period Class members have  
15 been non-exempt employees of Defendants and entitled to the full protections of both the Labor  
16 Code and the Wage Order.

17 22. Labor Code § 204 requires employers to timely pay earned wages to their  
18 employees for all labor that their employees normally perform by no later than the regularly  
19 scheduled payday for that pay period and for all labor in excess of that which their employees  
20 normally perform by no later than the regularly scheduled payday for the next pay period.

21 23. Labor Code §§ 223, 510, 1194, 1197, and 1198, and Sections 3 and 4 of the  
22 Wage Order require an employer to pay a non-exempt employee no less than minimum wage  
23 for all hours worked, no less than one and one-half times the employee's regular rate of pay for  
24 all hours worked in excess of 8 hours in one workday, in excess of 40 hours in one workweek,  
25 and for the first 8 hours worked on a seventh consecutive workday, and at no less than twice the  
26 employee's regular rate of pay for all hours worked in excess of 12 hours in a workday and/or in  
27 excess of 8 hours on a seventh consecutive workday.

28 ///

24. Labor Code § 512 and Section 11 of the Wage Order both require employers to provide their employees with meal periods of no less than 30 minutes for each work period of 5 or more hours, including two meal periods of no less than 30 minutes for each work period of more than 10 hours.

25. In relevant part, Section 11(C) of the Wage Order states, "Unless [an] employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked."

26. Both Labor Code § 226.7 and Section 11 of the Wage Order require an employer to pay a non-exempt employee an additional hour of wages at the employee's regular rate of compensation on each workday that the employee is not provided with a required meal period in violation of the Wage Order.

27. At all relevant times, and in violation of the above-referenced sections of the Labor Code and the Wage Order, Plaintiff recorded meal periods of less than 30 minutes without being paid minimum and/or overtime wages for the time they were clocked out from work on those workdays and without being paid premium wages on those workdays.

28. Plaintiff is informed and believes that, at all relevant times, and in violation of the above-referenced sections of the Labor Code and the Wage Order, **Shortened Meal Period** Class members recorded meal periods of less than 30 minutes without being paid minimum and/or overtime wages for the time they were clocked out from work on those workdays and without being paid premium wages on those workdays.

#### ***Overtime Wage Rate Class & Premium Wage Rate Class***

29. California law uses the terms "compensation" and "pay" interchangeably and requires that all applicable remuneration, including, but not limited to, non-discretionary bonuses, be included when calculating a non-exempt employee's regular rate of pay.

30. At all relevant times, Defendants paid Plaintiff overtime wages based on a rate of pay that did not reflect commissions and non-discretionary bonuses rather than based on a regular rate of pay that was correctly calculated to reflect those amounts as Labor Code § 510 and Section 3 of the Wage Order require.

31. Plaintiff is informed and believes that, at all relevant times, Defendants have paid **Overtime Wage Rate Class** members overtime wages based on rates of pay that have not reflected commissions and non-discretionary bonuses rather than based on regular rates of pay that were correctly calculated to reflect those amounts as Labor Code § 510 and Section 3 of the Wage Order require.

32. At all relevant times, Defendants paid Plaintiff premium wages based on a rate of compensation that did not reflect commissions and non-discretionary bonuses rather than based on a regular rate of compensation that was correctly calculated to reflect those amounts as Labor Code § 226.7(b) and Section 11(D) of the Wage Order both require.

33. Plaintiff is informed and believes that, at all relevant times, Defendants have paid **Premium Wage Rate Class** members premium wages based on rates of compensation that have not reflected commissions and non-discretionary bonuses rather than based on regular rates of compensation that were correctly calculated to reflect those amounts as Labor Code § 226.7(b) and Section 11(D) of the Wage Order both require.

#### *Relief Sought*

34. Pursuant to Business and Professions Code §§ 17203–17204, Plaintiff, on behalf of himself, the **Shortened Meal Period Class**, **Overtime Wage Rate Class**, and the **Premium Wage Rate Class**, seeks an order awarding restitution of unpaid wages that Defendants acquired, or may have acquired, by means of unfair competition in amounts subject to proof.

35. Pursuant to Code of Civil Procedure § 1021.5, the substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of himself, the **Shortened Meal Period Class**, **Overtime Wage Rate Class**, and the **Premium Wage Rate Class**, seeks awards of reasonable costs and attorneys' fees in amounts subject to proof.

#### **SECOND CAUSE OF ACTION**

##### **FAILURE TO PAY MINIMUM AND OVERTIME WAGES**

**(Lab. Code §§ 1194 and 1194.2)**

**(By Plaintiff, the Shortened Meal Period Class, and the Overtime Wage Rate Class)**

36. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

1           37. Pursuant to Labor Code §§ 1194 and 1194.2, Plaintiff, on behalf of himself, the  
 2 **Shortened Meal Period Class**, and the **Overtime Wage Rate Class**, seeks to recover earned  
 3 and unpaid minimum and overtime wages, interest thereon, liquidated damages, and awards of  
 4 reasonable costs and attorneys' fees, all in amounts subject to proof.

5                                   **THIRD CAUSE OF ACTION**

6                                   **WAITING TIME PENALTIES**

7                                   **(Lab. Code § 203)**

8                                   **(By Plaintiff and the Waiting Time Penalties Class)**

9           38. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

10          39. Labor Code § 201 provides that all of the earned and unpaid wages of an  
 11 employee who is discharged become due and payable immediately at the time of discharge.

12          40. Labor Code § 202 provides that all of the earned and unpaid wages of an  
 13 employee who quits become due and payable at the time of quitting if the employee gives at  
 14 least 72-hours notice before quitting, or within 72 hours of quitting if the employee gives less  
 15 than 72-hours notice before quitting.

16          41. Defendants failed to timely pay Plaintiff earned and unpaid minimum, overtime,  
 17 and premium wages after he was discharged in violation of Labor Code § 201.

18          42. Plaintiff is informed and believes that Defendants have failed to timely pay  
 19 **Waiting Time Penalties Class** members earned and unpaid minimum, overtime, and/or  
 20 premium wages after quitting or discharge in violation of Labor Code § 201 or § 202.

21          43. Labor Code § 203 provides that the wages of an employee shall continue as a  
 22 penalty from the due date until the wages are paid for up to 30 days where an employer willfully  
 23 fails to timely pay any amount of earned and unpaid wages in violation of California Labor  
 24 Code § 201 or § 202.

25          44. Plaintiff is informed and believes that Defendants' failures to pay minimum,  
 26 overtime, and/or premium wages to him and **Waiting Time Penalties Class** members have  
 27 been willful in that Defendants have the ability to pay said wages in conformity with the Labor  
 28 Code and the Wage Order but have deliberately adopted payroll policies and practices that are

1 inconsistent with those requirements.

2 45. Pursuant to Labor Code § 203, Plaintiff, on behalf of himself and the **Waiting**  
3 **Time Penalties Class**, seeks to recover up to 30 days of waiting time penalties per employee in  
4 amounts subject to proof.

5 **FOURTH CAUSE OF ACTION**  
6 **WAGE STATEMENT PENALTIES**  
7 **(Lab. Code § 226)**

8 **(By Plaintiff and the Wage Statement Penalties Class)**

9 46. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

10 47. Pursuant to Labor Code § 226(a), Defendants have been obliged to provide  
11 Plaintiff and **Wage Statement Penalties Class** members, either semimonthly or at the time of  
12 each payment of wages, accurate itemized statement showing, among other things, all  
13 applicable hourly rates of pay in effect during the pay period, their corresponding number of  
14 hours worked at each applicable rate, and gross and net wages earned.

15 48. By failing to pay minimum, overtime, and premium wages to Plaintiff as set  
16 forth above, Defendants have furnished him with written wage statements that do not accurately  
17 reflect all of his applicable rates of pay, hours worked, corresponding wages earned at each  
18 applicable rate, and amounts of gross and net wages.

19 49. Plaintiff is informed and believes that by failing to pay minimum, overtime,  
20 and/or premium wages to **Wage Statement Penalties Class** members as set forth above,  
21 Defendants have furnished them with written wage statements that do not accurately reflect all  
22 of their applicable rates of pay, hours worked, corresponding wages earned at each applicable  
23 rate, and amounts of gross and net wages.

24 50. Plaintiff is informed and believes that Defendants' failures to provide him and  
25 **Wage Statement Penalties Class** members with accurate wage statements have been  
26 intentional, in that Defendants have, at all relevant times, had the ability to provide them with  
27 accurate wage statements but, instead, have intentionally provided them with inaccurate wage  
28 statements as a result of not correctly calculating their applicable rates of pay, hours worked,

1 corresponding wages earned at each applicable rate, and amounts of gross and net wages.

2       51. Plaintiff and **Wage Statement Penalties Class** members have suffered injuries  
3 due to Defendants' failures to provide them with accurate written wage statements. Their legal  
4 rights to receive accurate wage statements have been violated and they have been misled about  
5 the rates at which their wages are to be paid and the amounts of wages they have been paid. In  
6 addition, the absence of accurate information has prevented immediate challenges to allegedly  
7 unlawful pay practices, has required discovery and mathematical computations to determine the  
8 amount of wages owed, has caused difficulty and expense in attempting to reconstruct time and  
9 pay records, and/or has caused inaccurate information about wages and wage deductions to be  
10 submitted to government agencies.

11       52. Pursuant to Labor Code § 226(e), Plaintiff, on behalf of himself and the **Wage**  
12 **Statement Penalties Class**, seeks to recover the greater of actual damages or \$50 for the initial  
13 pay period in which a § 226(a) violation occurred, the greater of actual damages or \$100 for  
14 each violation of Labor Code Section 226(a) in a subsequent pay period, up to the greater of  
15 actual damages or a aggregate \$4,000 penalty per class member, as well as awards of reasonable  
16 attorneys' fees and costs, all in amounts subject to proof.

### 17                               **SIXTH CAUSE OF ACTION**

#### 18                               **CIVIL PENALTIES**

19                               **(Lab. Code §§ 2698, *et seq.*)**

20       53. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

21       54. During the applicable limitations period, Defendants have violated Labor Code  
22 §§ 201, 202, 203, 204, 223, 226(a), 226.7, 510, 512, 1194, 1197, and 1198.

23       55. Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of  
24 herself and other current and former employees, to bring a representative civil action to recover  
25 civil penalties pursuant to the procedures specified in Labor Code § 2699.3 that may, but need  
26 not, be brought or maintained as a class action pursuant to Code of Civil Procedure § 382.

27       56. Plaintiff, as a former employee against whom Defendants committed one or  
28 more of the alleged Labor Code violations during the applicable limitations period, is an

1 aggrieved employee within the meaning of Labor Code § 2699(c).

2 57. Plaintiff has complied with the procedures for bringing suit specified in Labor  
3 Code § 2699.3. By letter dated March 28, 2011, Plaintiff gave written notice via certified mail  
4 to the Labor and Workforce Development Agency ("LWDA") and Defendants of the specific  
5 provisions of the Labor Code alleged to have been violated, including the facts and theories to  
6 support the alleged violations. More than 33 days have passed since the date of Plaintiff's letter  
7 and the LWDA has not informed Plaintiff that it intends to investigate the alleged violations.

8 ***Failures to Provide Suitable Seats***

9 58. In addition to the violations of the Labor Code set forth above, Defendants have  
10 also violated Labor Code § 1198, which prohibits the employment of persons under conditions  
11 that violate the Wage Order.

12 59. Specifically, Section 14 of the Wage Order provides,

13 (A) All working employees shall be provided with suitable seats when the  
14 nature of the work reasonably permits the use of seats.

15 (B) When employees are not engaged in the active duties of their  
16 employment and the nature of the work requires standing, an adequate  
17 number of suitable seats shall be placed in reasonable proximity to the  
18 work area and employees shall be permitted to use such seats when it does  
19 not interfere with the performance of their duties.

20 60. At all relevant times during his employment, Defendants did not provide Plaintiff  
21 with suitable seats when he performed job duties that allowed for the use of such seats, such as  
22 operating a cash register, did not place an adequate number of suitable seats within a reasonable  
23 proximity to his work area when he performed job duties that required him to stand, such as  
24 cooking, and, in fact, did not permit him to use a seat except during breaks.

25 61. Plaintiff is informed and believes that, at all relevant times, Defendants have not  
26 provide other aggrieved employees with suitable seats when they have performed job duties that  
27 allow for the use of such seats, such as operating cash registers, have not placed an adequate  
28 number of suitable seats within a reasonable proximity to their work areas when they have  
performed job duties that have required them to stand, such as cooking, and, in fact, have not

1 permitted them to use seats except during breaks.

2 ***Civil Penalties Sought Based on All Alleged Labor Code Violations***

3 62. Pursuant to Labor Code §§ 2699(a) and (f), Plaintiff seeks the following civil  
4 penalties for Defendants' violations of Labor Code §§, 201, 202, 203, 204, 223, 226(a), 226.7,  
5 510, 512, 1194, 1197, and 1198:

- 6 A. For violations of Labor Code §§ 201, 202, 203, 226.7, 1194, and 1198,  
7 \$100 for each employee per pay period for each initial violation and \$200  
8 for each employee per pay period for each subsequent violation (penalties  
9 set by Labor Code § 2699(f)(2));
- 10 B. For violations of Labor Code § 204, \$100 for each employee for each  
11 initial violation that was neither willful nor intentional, \$200 for each  
12 employee, plus 25% of the amount unlawfully withheld from each  
13 employee, for each initial violation that was either willful or intentional,  
14 and \$200 for each employee, plus 25% of the amount unlawfully  
15 withheld from each employee, for each subsequent violation, regardless  
16 of whether the subsequent violation was either willful or intentional  
17 (penalties set by Labor Code § 210);
- 18 C. For violations of Labor Code § 223, \$100 for each employee for each  
19 initial violation that was neither willful nor intentional, \$200 for each  
20 employee, plus 25% of the amount unlawfully withheld from each  
21 employee, for each initial violation that was either willful or intentional,  
22 and \$200 for each employee, plus 25% of the amount unlawfully  
23 withheld from each employee, for each subsequent violation, regardless  
24 of whether the subsequent violation was either willful or intentional  
25 (penalties set by Labor Code § 225.5);
- 26 D. For violations of Labor Code § 226(a), if this action is deemed to be an  
27 initial citation, \$250 for each employee for each violation. Alternatively,  
28 if an initial citation or its equivalent occurred before the filing of this



1 action, \$1,000 for each employee for each violation (penalties set by  
2 Labor Code § 226.3);

3 E. For violations of Labor Code §§ 510 and 512, \$50 for each employee for  
4 each initial pay period for which the employee was underpaid, and \$100  
5 for each employee for each subsequent pay period for which the  
6 employee was underpaid (penalties set by Labor Code § 558); and

7 F. For violations of Labor Code § 1197, \$100 for each aggrieved employee  
8 for each initial violation of Labor Code § 1197 that was intentional, and  
9 \$250 for each aggrieved employee per pay period for each subsequent  
10 violation of § 1197, regardless of whether the initial violation was  
11 intentional (penalties set by Labor Code § 1197.1).

12 63. Pursuant to Labor Code § 2699(g), Plaintiff seeks awards of reasonable costs and  
13 attorneys' fees in connection with his claims for civil penalties.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated, and as an  
16 "aggrieved employee" on behalf of other "aggrieved employees," prays for relief and judgment  
17 against Defendants as follows:

- 18 A. An order that the action be certified as a class action;
- 19 B. An order that Plaintiff be appointed class representative;
- 20 C. An order that counsel for Plaintiff be appointed class counsel;
- 21 D. Damages;
- 22 E. Restitution;
- 23 F. Declaratory relief;
- 24 G. Injunctive relief;
- 25 H. Civil penalties;
- 26 I. Statutory penalties;
- 27 J. Pre-judgment interest;
- 28 K. Costs of suit;

1 L. Reasonable attorney's fees; and

2 M. Such other relief as the Court deems just and proper.

3 **DEMAND FOR JURY TRIAL**

4 Plaintiff, on behalf of himself and all others similarly situated, and as an "aggrieved  
5 employee" on behalf of other "aggrieved employees," hereby demands a jury trial on all issues  
6 so triable.

7 Respectfully submitted,

8 LAW OFFICES OF SHAUN SETAREH  
9 THE SPIVAK LAW FIRM  
10 LAW OFFICES OF LOUIS BENOWITZ

11 Dated: May 5, 2011

12 BY 

13 SHAUN SETAREH  
14 Attorneys for Plaintiff  
15 RALF SINGH-BISCHOFBERGER  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Items 1-6 below must be completed (see instructions on page 2).

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. ☐ Large number of separately represented parties      d. ☐ Large number of witnesses

b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve      e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court

c. ☐ Substantial amount of documentary evidence      f. ☐ Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☒ monetary      b. ☒ nonmonetary; declaratory or injunctive relief      c. ☐ punitive

4. Number of causes of action (specify):

5. This case ☒ is ☐ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

## NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

SHORT TITLE: Singh-Bischofberger v. Sur La Table	CASE NUMBER <b>BC 461167</b>
---	---------------------------------

**CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION  
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

**This form is required pursuant to LASC Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.**

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? ☒ YES CLASS ACTION? ☒ YES LIMITED CASE? ☐ YES TIME ESTIMATED FOR TRIAL <sup>21</sup> ☐ HOURS/ ☒ DAYS

Item II. Select the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

**Step 1:** After first completing the Civil Case Cover Sheet Form, find the main civil case cover sheet heading for your case in the left margin below, and, to the right in Column A, the Civil Case Cover Sheet case type you selected.

**Step 2:** Check one Superior Court type of action in Column B below which best describes the nature of this case.

**Step 3:** In Column C, circle the reason for the court location choice that applies to the type of action you have checked.

For any exception to the court location, see Los Angeles Superior Court Local Rule 2.0.

**Applicable Reasons for Choosing Courthouse Location (see Column C below)**

- |   |  |
|---|--|
| 1. Class Actions must be filed in the County Courthouse, Central District.      | 6. Location of property or permanently garaged vehicle.    |
| 2. May be filed in Central (Other county, or no Bodily Injury/Property Damage). | 7. Location where petitioner resides.                      |
| 3. Location where cause of action arose.  | 8. Location wherein defendant/respondent functions wholly. |
| 4. Location where bodily injury, death or damage occurred.                      | 9. Location where one or more of the parties reside.       |
| 5. Location where performance required or defendant resides.                    | 10. Location of Labor Commissioner Office.                 |

**Step 4:** Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	<b>A</b> Civil Case Cover Sheet Category No.	<b>B</b> Type of Action (Check only one)	<b>C</b> Applicable Reasons - See Step 3 Above
<b>Auto Tort</b>	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
<b>Other Personal Injury/Property Damage/Wrongful Death Tort</b>	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 2., 4. 1., 2., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	<input checked="" type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1., 2., 4.
		<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1., 2., 4.
<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress		1., 2., 3.	
<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death		1., 2., 4.	
<b>Non-Personal Injury/Property Damage/Wrongful Death Tort</b>	Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 2., 3.
	Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
	Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.

Non-Personal Injury/Property Damage/  
Wrongful Death Tort (Cont'd.)

Employment

Contract

Real Property

Judicial Review  
Unlawful Detainer

SHORT TITLE: Singh-Bischofberger v. Sur La Table		CASE NUMBER
A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons -See Step 3 Above
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	<input checked="" type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1., 2., 3. 10.
Breach of Contract/ Warranty (08) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not Unlawful Detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation      Number of parcels _____	2.
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6. 2., 6. 2., 6.
Unlawful Detainer- Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer- Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer- Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.
Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.

SHORT TITLE: Singh-Bischofberger v. Sur La Table		CASE NUMBER
---	--	-------------

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.
Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
Construction Defect (10)	<input type="checkbox"/> A6007 Construction defect	1., 2., 3.
Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.
RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
Partnership Corporation Governance(21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.


SHORT TITLE: Singh-Bischofberger v. Sur La Table	CASE NUMBER
---	-------------

Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: CHECK THE NUMBER UNDER COLUMN C WHICH APPLIES IN THIS CASE  <input type="checkbox"/> 1. <input type="checkbox"/> 2. <input type="checkbox"/> 3. <input checked="" type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.		ADDRESS: 111 North Hill Stree	
CITY: Los Angeles	STATE: CA	ZIP CODE: 90012	

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Stanley Mosk courthouse in the Central District of the Los Angeles Superior Court (Code Civ. Proc., § 392 et seq., and LASC Local Rule 2.0, subds. (b), (c) and (d)).

Dated: March 6, 2011

  
(SIGNATURE OF ATTORNEY/FILING PARTY)

**PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:**

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet form CM-010.
4. Complete Addendum to Civil Case Cover Sheet form LACIV 109 (Rev. 01/07), LASC Approved 03-04.
5. Payment in full of the filing fee, unless fees have been waived.
6. Signed order appointing the Guardian ad Litem, JC form FL-935, if the plaintiff or petitioner is a minor under 18 years of age, or if required by Court.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.



SUM-100

# SUMMONS (CITACION JUDICIAL)

## NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

SUR LA TABLE, INC., a Washington corporation; and DOES 1-50, inclusive

**YOU ARE BEING SUED BY PLAINTIFF: RALF SINGH-BISCHOFBERGER, on  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):** behalf of himself and all others  
similarly situated, and as an "aggrieved employee" on behalf of other "aggrieved  
employees" under the Labor Code Private Attorneys General Act of 2004

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

**MAY 20 2011**

John A. Clarke, Executive Officer/Clerk

BY Shaunya Wesley, Deputy

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida el secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desecher el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):  
Superior Court of California, County of Los Angeles  
111 North Hill Street

Los Angeles, California 90012

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

LAW OFFICES OF SHAUN SETAREH

9454 Wilshire Blvd, Penthouse Floor, Beverly Hills, CA 90212

DATE:

(Fecha)

**MAY 20 2011**

Clerk, by  
(Secretario)

3108887771

, Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para probar la entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)

**NOTICE TO THE PERSON SERVED:** You are served

1. ☐ as an individual defendant.  
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):

4. ☐ by personal delivery on (date):





POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Shaun Setareh, SBN 204514 Law Office of Shaun Setareh 9454 Wilshire Blvd., PH 1 Beverly Hills, CA 90212 TELEPHONE NO.: (310) 888-7771 ATTORNEY FOR (Name): Plaintiff	FOR COURT USE ONLY <b>FILED</b> LOS ANGELES SUPERIOR COURT JUN 09 2011 JOHN A. CLARKE, CLERK BY RAUL SANCHEZ, DEPUTY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Superior Court of California, Los Angeles County 111 N. Hill Street Los Angeles, CA 90012-3117	
PLAINTIFF/PETITIONER: Ralf Singh-Bischofberger, et al. DEFENDANT/RESPONDENT: Sur La Table, Inc., et al.	CASE NUMBER: BC461167 <b>D324</b>
<b>PROOF OF SERVICE OF SUMMONS</b>	Ref. No. or File No.: Sur La Table <b>D-15</b>

- At the time of service I was a citizen of the United States, at least 18 years of age and not a party to this action.
- I served copies of: Summons, Complaint, Civil Case Cover Sheet, Civil Case Cover Sheet Addendum, Voluntary Efficient Litigation Stipulations
- Party served: Sur La Table, Inc., a Washington corporation
  - Person Served: Business Filings Incorporated, Leslie Fuller - Person authorized to accept service of process
- Address where the party was served: 1232 Q St., 1st Floor  
Sacramento, CA 95811
- I served the party
  - by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) or (date): 6/1/2011 (2) at (time): 12:51 PM
- The "Notice to the Person Served" (on the summons) was completed as follows:
  - on behalf of:

Sur La Table, Inc., a Washington corporation

under: CCP 416.10 (corporation)

**7. Person who served papers**

- Name: Jermaine deJose
- Address: One Legal - 194-Marin  
504 Redwood Blvd #223  
Novato, CA 94947
- Telephone number: 415-491-0606
- The fee for service was: \$ 62.00
- I am:
  - (3) registered California process server.
  - (i) Employee or independent contractor.
  - (ii) Registration No.: 2008-47
  - (iii) County SACRAMENTO

- I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.  
Date: 6/1/2011

Jermaine deJose

(NAME OF PERSON WHO SERVED PAPERS)

**BY FAX**

(SIGNATURE)

 Form Adopted for Mandatory Use  
 Judicial Council of California POS-010  
 (Rev. Jan 1, 2007)

Code of Civil Procedure, § 417.10

**PROOF OF SERVICE OF SUMMONS**

OL# 6748682

96/15/11

# **EXHIBIT B**

1 Shaun Setareh (SBN 204514)  
2 setarehlaw@sbcglobal.net  
3 Hayley Schwartzkopf (SBN 265131)  
4 hayley.setarehlaw@sbcglobal.net  
5 LAW OFFICES OF SHAUN SETAREH  
6 9454 Wilshire Boulevard, Penthouse Floor  
7 Beverly Hills, California 90212  
8 Telephone: (310) 888-7771  
9 Facsimile: (310) 888-0109  
10 (Additional Counsel on Following Page)

11 Attorneys for Plaintiff  
12 RALF SINGH-BISCHOFBERGER

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT  
(UNLIMITED JURISDICTION)**

RALF SINGH-BISCHOFBERGER, on  
behalf of himself and all others similarly  
situated, and as an “aggrieved employee” on  
behalf of other “aggrieved employees” under  
the Labor Code Private Attorneys General  
Act of 2004,

Plaintiff,

vs.

SUR LA TABLE, INC., a Washington  
corporation; and DOES 1-50, inclusive,

Defendants.

Case No. BC 461167

**CLASS ACTION**

**PLAINTIFF’S FIRST AMENDED  
COMPLAINT FOR:**

1. Unfair Competition (Bus. & Prof. Code §§ 17200, *et seq.*);
2. Unpaid Minimum and Overtime Wages (Lab. Code §§ 1194 and 1194.2);
3. Wage Statement Penalties (Lab. Code § 226);
4. Waiting Time Penalties (Lab. Code § 203); and,
5. Civil Penalties (Lab. Code §§ 2698, *et seq.*).

**JURY TRIAL DEMANDED**

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

JUN 22 2011

John A. Clarke, Executive Officer/Clerk  
By Amber Lafleur Clayton Deputy  
AMBER LAFLEUR CLAYTON

**ADDITIONAL COUNSEL FOR PLAINTIFF**

David Spivak (SBN 179684)  
david@spivaklaw.com

THE SPIVAK LAW FIRM  
9454 Wilshire Boulevard, Suite 303  
Beverly Hills, California 90212  
Telephone: (310) 499-4730  
Facsimile: (310) 499-4739

Louis Benowitz (SBN 262300)  
louis@benowitzlaw.com  
LAW OFFICES OF LOUIS BENOWITZ  
9454 Wilshire Boulevard, Penthouse Floor  
Beverly Hills, California 90212  
Telephone: (310) 888-7771  
Facsimile: (310) 888-0109

1 Plaintiff Ralf Singh-Bischofberger ("Plaintiff"), on behalf of himself and all others  
 2 similarly situated, and as an "aggrieved employee" on behalf of other "aggrieved employees"  
 3 under the Labor Code Private Attorneys General Act of 2004, complains and alleges as follows:

#### 4 INTRODUCTION

5 1. Plaintiff brings class and representative action based on alleged violations of the  
 6 Labor Code, Industrial Welfare Commission Order No. 7-2001 (hereafter "the Wage Order"),  
 7 and the Business and Professions Code against defendants Sur La Table, Inc. and Does 1-50,  
 8 inclusive (collectively "Defendants"). As set forth below in more detail below, Plaintiff alleges  
 9 that Defendants are liable to him and similarly situated current and former hourly employees in  
 10 California for unpaid wages and other related relief based on their alleged failures to pay them  
 11 minimum, overtime, and meal period premium wages. Plaintiff also alleges that Defendants are  
 12 liable to him and other "aggrieved employees" based on alleged failures to furnish them with  
 13 suitable seating accommodations. Accordingly, Plaintiff now seeks to recover unpaid wages and  
 14 related relief through this class and representative private attorney general action.

#### 15 JURISDICTION AND VENUE

16 2. This Court has subject matter jurisdiction to hear this case based on Plaintiff's  
 17 information and belief that relief sought herein for Defendants' alleged violations of the Labor  
 18 Code, Wage Order, and Business and Professions Code exceeds the jurisdictional minimum of  
 19 this Court as required under California law.

20 3. This case falls outside the scope of federal question subject matter jurisdiction in  
 21 that all of the causes of action set forth herein solely arise under California law and also falls  
 22 outside the scope of federal diversity subject matter jurisdiction based on Plaintiff's information  
 23 and belief that no class member has a claim that places more than \$75,000 in controversy and  
 24 that the aggregate claims of class members place less than \$5 million in controversy.

25 4. Venue is proper in Los Angeles County pursuant to Code of Civil Procedure  
 26 Sections 395(a) and 395.5 in that liability arose in Los Angeles County because at least some of  
 27 the transactions that are the subject matter of this Complaint occurred therein and/or because  
 28 each defendant is found, maintains offices, transacts business, and/or has an agent therein.

**PARTIES**

5. Plaintiff is a former hourly employee of Defendants who worked in Los Angeles County, California during the one-year time period before the filing of this action.

6. Defendant Sur La Table, Inc. is a corporation organized under Washington law.

7. Plaintiff is ignorant of the true names, capacities, relationships, and extent of participation in the conduct alleged herein, of the defendants sued as Does 1-50, inclusive, but is informed and believes that said defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint to allege the true names and capacities of the Doe defendants when ascertained.

8. Plaintiff is informed and believes that one or more of the defendants referred to herein have employed persons and engaged in unlawful labor and payroll practices in California during the applicable limitations periods.

9. Plaintiff is informed and believes that each defendant acted in all respects pertinent to this action as the agent of the other defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and that the acts of each defendant are legally attributable to each of the other defendants.

**CLASS ALLEGATIONS**

10. This action has been brought and may be maintained as a class action pursuant to Code of Civil Procedure § 382 because there is a well-defined community of interest among the persons who comprise the readily ascertainable classes defined below and because Plaintiff is unaware of any difficulties likely to be encountered in managing this case as a class action.

11. The class and subclass members are defined as follows:

**Shortened Meal Period Class:** All persons who, during the period beginning four years before the filing of this action and ending when final judgment is entered, clocked out for a recorded meal period of less than 30 minutes on one or more workdays without being paid an additional hour of premium wages on one or more of those workdays.

**Overtime Wage Rate Class:** All persons who, during the period beginning four years before the filing of this action and ending when final judgment is entered, were paid overtime wages and also received commissions and/or bonuses.

1       **Premium Wage Rate Class:** All persons who, during the period  
 2       beginning four years before the filing of this action and ending when final  
 3       judgment is entered, were paid meal and/or rest period premium wages  
       and also received commissions and/or bonuses.

4       **Waiting Time Penalties Class:** All Shortened Meal Period Class  
 5       Overtime Wage Rate Class, and/or Premium Wage Rate Class  
 6       members who voluntarily or involuntarily separated from their  
 7       employment with Defendants during the period beginning three years  
       before the filing of this action and ending when final judgment is entered.

8       **Wage Statement Penalties Class:** All Shortened Meal Period Class,  
 9       Overtime Wage Rate Class, and/or Premium Wage Rate Class  
 10      members employed by Defendants in California during the period  
       beginning one year before the filing of this action and ending when final  
       judgment is entered.

11       12. The membership of the above-defined classes and subclasses shall not include  
 12      any persons whose relevant claims have completely been extinguished through any previous  
 13      settlement or adjudication. In addition, and subject to the aforementioned limitation, the claims  
 14      asserted on behalf of persons who are members of the above-defined classes and subclasses  
 15      shall not include any claims asserted on their behalf in this action to the extent that they have  
 16      been extinguished through any previous settlement or adjudication, but shall include any and all  
 17      claims asserted on their behalf in this action to the extent they have not been extinguished.

18       13. Pursuant to Rule of Court 3.765(b), Plaintiff reserves the right to amend or  
 19      modify the class definitions with greater specificity, by further division into subclasses, and/or  
 20      by limitation to particular issues.

21       14. The class members are so numerous that the individual joinder of each individual  
 22      class member is impractical. While Plaintiff does not currently know the exact number of class  
 23      members, Plaintiff is informed and believes that the actual number of class members exceeds  
 24      the minimum number required for numerosity under California law.

25       15. Common questions of law and fact exist as to all class members and predominate  
 26      over any questions which only affect individual class members, including, but not limited to:

27           A. Whether Section 11(A) of the Wage Order requires Defendants to count  
 28           recorded meal periods that are less than 30 minutes as "time worked" for

1 **Shortened Meal Period Class** members?

- 2 B. Whether Labor Code § 226.7(b) requires Defendants to pay premium  
3 wages to **Shortened Meal Period Class** members for recorded meal  
4 periods of less than 30 minutes?
- 5 C. Whether Defendants failed to include commissions and non-discretionary  
6 bonuses in calculating regular rates of pay when paying overtime wages  
7 to **Overtime Wage Rate Class** members?
- 8 D. Whether Defendants are required to include commissions and non-  
9 discretionary bonuses in calculating the "regular rate of compensation"  
10 under Labor Code § 226.7(b) when paying premium wages to **Premium**  
11 **Wage Rate Class** members?
- 12 E. Whether Defendants may have acquired money or property by means of  
13 unfair competition in the forms of earned minimum, overtime, and/or  
14 premium wages from **Shortened Meal Period Class** and **Premium**  
15 **Wage Rate Class** members?
- 16 F. Whether Defendants willfully failed to timely pay earned and unpaid  
17 wages to **Waiting Time Penalties Class** members?
- 18 G. Whether Defendants knowingly and intentionally failed to provide **Wage**  
19 **Statement Penalties Class** members with accurate wage statements?

20 16. Plaintiff's claims are typical of the other class members' claims. Plaintiff is  
21 informed and believes that Defendants have policies or practices of failing to comply with the  
22 Labor Code, Wage Order, and Business and Professions Code as alleged herein.

23 17. Plaintiff will fairly and adequately represent and protect the interests of class  
24 members in that he has no interests adverse to those of absent class members and is represented  
25 by counsel with experience in employment and class action litigation.

26 18. A class action is vastly superior to other available means for fair and efficient  
27 adjudication of the class members' claims and would be beneficial to the parties and the Court.  
28 Class action treatment will allow a number of similarly situated persons to simultaneously and



efficiently prosecute their common claims in a single forum without the unnecessary duplication of effort and expense that numerous individual actions would entail. In addition, the monetary amounts due to many individual class members are likely to be relatively small and would thus make it difficult, if not impossible, for individual class members to both seek and obtain relief. Moreover, a class action will serve an important public interest by permitting class members to effectively pursue the recovery of moneys owed to them. Further, a class action will prevent the potential for inconsistent or contradictory judgments inherent in individual litigation.

### **FIRST CAUSE OF ACTION**

#### **UNFAIR COMPETITION**

**(Bus. & Prof. Code §§ 17200, *et seq.*)**

**(By Plaintiff, the Shortened Meal Period Class, the Overtime Wage Rate Class,  
and the Premium Wage Rate Class)**

19. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

20. Business and Professions Code § 17200 defines "unfair competition" to include any unlawful business practice.

21. Business and Professions Code §§ 17203–17204 allow a person who has lost money or property as a result of unfair competition to bring a class action in accordance with Code of Civil Procedure § 382 to recover money or property that may have been acquired from similarly situated persons by means of unfair competition.

#### ***Shortened Meal Period Class***

22. At all relevant times, Plaintiff and Shortened Meal Period Class members have been non-exempt employees of Defendants and entitled to the full protections of both the Labor Code and the Wage Order.

23. Labor Code § 204 requires employers to timely pay earned wages to their employees for all labor that their employees normally perform by no later than the regularly scheduled payday for that pay period and for all labor in excess of that which their employees normally perform by no later than the regularly scheduled payday for the next pay period.

24. Labor Code §§ 223, 510, 1194, 1197, and 1198, and Sections 3 and 4 of the

1 Wage Order require an employer to pay a non-exempt employee no less than minimum wage  
 2 for all hours worked, no less than one and one-half times the employee's regular rate of pay for  
 3 all hours worked in excess of 8 hours in one workday, in excess of 40 hours in one workweek,  
 4 and for the first 8 hours worked on a seventh consecutive workday, and at no less than twice the  
 5 employee's regular rate of pay for all hours worked in excess of 12 hours in a workday and/or in  
 6 excess of 8 hours on a seventh consecutive workday.

7 ///

8 25. Labor Code § 512 and Section 11 of the Wage Order both require employers to  
 9 provide their employees with meal periods of no less than 30 minutes for each work period of 5  
 10 or more hours, including two meal periods of no less than 30 minutes for each work period of  
 11 more than 10 hours.

12 26. In relevant part, Section 11(C) of the Wage Order states, "Unless [an] employee  
 13 is relieved of all duty during a 30 minute meal period, the meal period shall be considered an  
 14 "on duty" meal period and counted as time worked."

15 27. Both Labor Code § 226.7 and Section 11 of the Wage Order require an employer  
 16 to pay a non-exempt employee an additional hour of wages at the employee's regular rate of  
 17 compensation on each workday that the employee is not provided with a required meal period in  
 18 violation of the Wage Order.

19 28. At all relevant times, and in violation of the above-referenced sections of the  
 20 Labor Code and the Wage Order, Plaintiff recorded meal periods of less than 30 minutes  
 21 without being paid minimum and/or overtime wages for the time they were clocked out from  
 22 work on those workdays and without being paid premium wages on those workdays.

23 29. Plaintiff is informed and believes that, at all relevant times, and in violation of  
 24 the above-referenced sections of the Labor Code and the Wage Order, **Shortened Meal Period**  
 25 **Class** members recorded meal periods of less than 30 minutes without being paid minimum  
 26 and/or overtime wages for the time they were clocked out from work on those workdays and  
 27 without being paid premium wages on those workdays.

28 ***Overtime Wage Rate Class & Premium Wage Rate Class***

36. Pursuant to Code of Civil Procedure § 1021.5, the substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of himself, the **Shortened Meal Period**

1 **Class, Overtime Wage Rate Class, and the Premium Wage Rate Class, seeks awards of**  
2 **reasonable costs and attorneys' fees in amounts subject to proof.**

3 **SECOND CAUSE OF ACTION**

4 **FAILURE TO PAY MINIMUM AND OVERTIME WAGES**

5 **(Lab. Code §§ 1194 and 1194.2)**

6 **(By Plaintiff, the Shortened Meal Period Class, and the Overtime Wage Rate Class)**

7 37. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

8 38. Pursuant to Labor Code §§ 1194 and 1194.2, Plaintiff, on behalf of himself, the  
9 **Shortened Meal Period Class, and the Overtime Wage Rate Class, seeks to recover earned**  
10 **and unpaid minimum and overtime wages, interest thereon, liquidated damages, and awards of**  
11 **reasonable costs and attorneys' fees, all in amounts subject to proof.**

12 **THIRD CAUSE OF ACTION**

13 **WAITING TIME PENALTIES**

14 **(Lab. Code § 203)**

15 **(By Plaintiff and the Waiting Time Penalties Class)**

16 39. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

17 40. Labor Code § 201 provides that all of the earned and unpaid wages of an  
18 employee who is discharged become due and payable immediately at the time of discharge.

19 41. Labor Code § 202 provides that all of the earned and unpaid wages of an  
20 employee who quits become due and payable at the time of quitting if the employee gives at  
21 least 72-hours notice before quitting, or within 72 hours of quitting if the employee gives less  
22 than 72-hours notice before quitting.

23 42. Defendants failed to timely pay Plaintiff earned and unpaid minimum, overtime,  
24 and premium wages after he was discharged in violation of Labor Code § 201.

25 43. Plaintiff is informed and believes that Defendants have failed to timely pay  
26 **Waiting Time Penalties Class** members earned and unpaid minimum, overtime, and/or  
27 premium wages after quitting or discharge in violation of Labor Code § 201 or § 202.

28 44. Labor Code § 203 provides that the wages of an employee shall continue as a

1 penalty from the due date until the wages are paid for up to 30 days where an employer willfully  
 2 fails to timely pay any amount of earned and unpaid wages in violation of California Labor  
 3 Code § 201 or § 202.

4 45. Plaintiff is informed and believes that Defendants' failures to pay minimum,  
 5 overtime, and/or premium wages to him and **Waiting Time Penalties Class** members have  
 6 been willful in that Defendants have the ability to pay said wages in conformity with the Labor  
 7 Code and the Wage Order but have deliberately adopted payroll policies and practices that are  
 8 inconsistent with those requirements.

9 46. Pursuant to Labor Code § 203, Plaintiff, on behalf of himself and the **Waiting**  
 10 **Time Penalties Class**, seeks to recover up to 30 days of waiting time penalties per employee in  
 11 amounts subject to proof.

12 **FOURTH CAUSE OF ACTION**  
 13 **WAGE STATEMENT PENALTIES**

14 **(Lab. Code § 226)**

15 **(By Plaintiff and the Wage Statement Penalties Class)**

16 47. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

17 48. Pursuant to Labor Code § 226(a), Defendants have been obliged to provide  
 18 Plaintiff and **Wage Statement Penalties Class** members, either semimonthly or at the time of  
 19 each payment of wages, accurate itemized statement showing, among other things, all  
 20 applicable hourly rates of pay in effect during the pay period, their corresponding number of  
 21 hours worked at each applicable rate, and gross and net wages earned.

22 49. By failing to pay minimum, overtime, and premium wages to Plaintiff as set  
 23 forth above, Defendants have furnished him with written wage statements that do not accurately  
 24 reflect all of his applicable rates of pay, hours worked, corresponding wages earned at each  
 25 applicable rate, and amounts of gross and net wages.

26 50. Plaintiff is informed and believes that by failing to pay minimum, overtime,  
 27 and/or premium wages to **Wage Statement Penalties Class** members as set forth above,  
 28 Defendants have furnished them with written wage statements that do not accurately reflect all

1 of their applicable rates of pay, hours worked, corresponding wages earned at each applicable  
2 rate, and amounts of gross and net wages.

3 51. Plaintiff is informed and believes that Defendants' failures to provide him and  
4 **Wage Statement Penalties Class** members with accurate wage statements have been  
5 intentional, in that Defendants have, at all relevant times, had the ability to provide them with  
6 accurate wage statements but, instead, have intentionally provided them with inaccurate wage  
7 statements as a result of not correctly calculating their applicable rates of pay, hours worked,  
8 corresponding wages earned at each applicable rate, and amounts of gross and net wages.

9 52. Plaintiff and **Wage Statement Penalties Class** members have suffered injuries  
10 due to Defendants' failures to provide them with accurate written wage statements. Their legal  
11 rights to receive accurate wage statements have been violated and they have been misled about  
12 the rates at which their wages are to be paid and the amounts of wages they have been paid. In  
13 addition, the absence of accurate information has prevented immediate challenges to allegedly  
14 unlawful pay practices, has required discovery and mathematical computations to determine the  
15 amount of wages owed, has caused difficulty and expense in attempting to reconstruct time and  
16 pay records, and/or has caused inaccurate information about wages and wage deductions to be  
17 submitted to government agencies.

18 53. Pursuant to Labor Code § 226(e), Plaintiff, on behalf of himself and the **Wage**  
19 **Statement Penalties Class**, seeks to recover the greater of actual damages or \$50 for the initial  
20 pay period in which a § 226(a) violation occurred, the greater of actual damages or \$100 for  
21 each violation of Labor Code Section 226(a) in a subsequent pay period, up to the greater of  
22 actual damages or a aggregate \$4,000 penalty per class member, as well as awards of reasonable  
23 attorneys' fees and costs, all in amounts subject to proof.

## 24 SIXTH CAUSE OF ACTION

### 25 CIVIL PENALTIES

26 (Lab. Code §§ 2698, *et seq.*)

27 54. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

28 55. During the applicable limitations period, Defendants have violated Labor Code

1 §§ 201, 202, 203, 204, 223, 226(a), 226.7, 510, 512, 1194, 1197, and 1198.

2 56. Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of  
3 herself and other current and former employees, to bring a representative civil action to recover  
4 civil penalties pursuant to the procedures specified in Labor Code § 2699.3 that may, but need  
5 not, be brought or maintained as a class action pursuant to Code of Civil Procedure § 382.

6 57. Plaintiff, as a former employee against whom Defendants committed one or  
7 more of the alleged Labor Code violations during the applicable limitations period, is an  
8 aggrieved employee within the meaning of Labor Code § 2699(c).

9 58. Plaintiff has complied with the procedures for bringing suit specified in Labor  
10 Code § 2699.3. By letter dated March 28, 2011, Plaintiff gave written notice via certified mail  
11 to the Labor and Workforce Development Agency ("LWDA") and Defendants of the specific  
12 provisions of the Labor Code alleged to have been violated, including the facts and theories to  
13 support the alleged violations. More than 33 days have passed since the date of Plaintiff's letter  
14 and the LWDA has not informed Plaintiff that it intends to investigate the alleged violations.

15 *Failures to Provide Suitable Seats*

16 59. In addition to the violations of the Labor Code set forth above, Defendants have  
17 also violated Labor Code § 1198, which prohibits the employment of persons under conditions  
18 that violate the Wage Order.

19 60. Specifically, Section 14 of the Wage Order provides,

20 (A) All working employees shall be provided with suitable seats when the  
21 nature of the work reasonably permits the use of seats.

22 (B) When employees are not engaged in the active duties of their  
23 employment and the nature of the work requires standing, an adequate  
24 number of suitable seats shall be placed in reasonable proximity to the  
25 work area and employees shall be permitted to use such seats when it does  
26 not interfere with the performance of their duties.

27 61. At all relevant times during his employment, Defendants did not provide Plaintiff  
28 with suitable seats when he performed job duties that allowed for the use of such seats, such as  
operating a cash register, did not place an adequate number of suitable seats within a reasonable

1 proximity to his work area when he performed job duties that required him to stand, such as  
2 cooking, and, in fact, did not permit him to use a seat except during breaks.

3 62. Plaintiff is informed and believes that, at all relevant times, Defendants have not  
4 provide other aggrieved employees with suitable seats when they have performed job duties that  
5 allow for the use of such seats, such as operating cash registers, have not placed an adequate  
6 number of suitable seats within a reasonable proximity to their work areas when they have  
7 performed job duties that have required them to stand, such as cooking, and, in fact, have not  
8 permitted them to use seats except during breaks.

9 ***Civil Penalties Sought Based on All Alleged Labor Code Violations***

10 63. Pursuant to Labor Code §§ 2699(a) and (f), Plaintiff seeks the following civil  
11 penalties for Defendants' violations of Labor Code §§, 201, 202, 203, 204, 223, 226(a), 226.7,  
12 510, 512, 1194, 1197, and 1198:

- 13 A. For violations of Labor Code §§ 201, 202, 203, 226.7, 1194, and 1198,  
14 \$100 for each employee per pay period for each initial violation and \$200  
15 for each employee per pay period for each subsequent violation (penalties  
16 set by Labor Code § 2699(f)(2));
- 17 B. For violations of Labor Code § 204, \$100 for each employee for each  
18 initial violation that was neither willful nor intentional, \$200 for each  
19 employee, plus 25% of the amount unlawfully withheld from each  
20 employee, for each initial violation that was either willful or intentional,  
21 and \$200 for each employee, plus 25% of the amount unlawfully  
22 withheld from each employee, for each subsequent violation, regardless  
23 of whether the subsequent violation was either willful or intentional  
24 (penalties set by Labor Code § 210);
- 25 C. For violations of Labor Code § 223, \$100 for each employee for each  
26 initial violation that was neither willful nor intentional, \$200 for each  
27 employee, plus 25% of the amount unlawfully withheld from each  
28 employee, for each initial violation that was either willful or intentional,



1 and \$200 for each employee, plus 25% of the amount unlawfully  
2 withheld from each employee, for each subsequent violation, regardless  
3 of whether the subsequent violation was either willful or intentional  
4 (penalties set by Labor Code § 225.5);

5 D. For violations of Labor Code § 226(a), if this action is deemed to be an  
6 initial citation, \$250 for each employee for each violation. Alternatively,  
7 if an initial citation or its equivalent occurred before the filing of this  
8 action, \$1,000 for each employee for each violation (penalties set by  
9 Labor Code § 226.3);

10 E. For violations of Labor Code §§ 510 and 512, \$50 for each employee for  
11 each initial pay period for which the employee was underpaid, and \$100  
12 for each employee for each subsequent pay period for which the  
13 employee was underpaid (penalties set by Labor Code § 558); and

14 F. For violations of Labor Code § 1197, \$100 for each aggrieved employee  
15 for each initial violation of Labor Code § 1197 that was intentional, and  
16 \$250 for each aggrieved employee per pay period for each subsequent  
17 violation of § 1197, regardless of whether the initial violation was  
18 intentional (penalties set by Labor Code § 1197.1).

19 64. Pursuant to Labor Code § 2699(g), Plaintiff seeks awards of reasonable costs and  
20 attorneys' fees in connection with his claims for civil penalties.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated, and as an  
23 "aggrieved employee" on behalf of other "aggrieved employees," prays for relief and judgment  
24 against Defendants as follows:

- 25 A. An order that the action be certified as a class action;  
26 B. An order that Plaintiff be appointed class representative;  
27 C. An order that counsel for Plaintiff be appointed class counsel;  
28 D. Damages;

- E. Restitution;
- F. Declaratory relief;
- G. Injunctive relief;
- H. Civil penalties;
- I. Statutory penalties;
- J. Pre-judgment interest;
- K. Costs of suit;
- L. Reasonable attorney's fees; and
- M. Such other relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff, on behalf of himself and all others similarly situated, and as an "aggrieved employee" on behalf of other "aggrieved employees," hereby demands a jury trial on all issues so triable.

Respectfully submitted,

LAW OFFICES OF SHAUN SETAREH  
THE SPIVAK LAW FIRM  
LAW OFFICES OF LOUIS BENOWITZ

Dated: May 5, 2011

BY

  
SHAUN SETAREH  
Attorneys for Plaintiff  
RALF SINGH-BISCHOFBERGER

**PROOF OF SERVICE**

State of California,  
County of Los Angeles

1. I am a citizen of the United States and am employed in the County of Los Angeles, State of California. I am over the age of 18 years, and not a party to the within action. My business address is 9454 Wilshire Blvd., PH 1, Beverly Hills, California 90212.

2. I am familiar with the practice of the Law Office of Shaun Setareh, for collection and processing of correspondence for mailing with the United States Postal Service. It is the practice that correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On Tuesday, June 21, 2011, I served the foregoing document described as **PLAINTIFF'S FIRST AMENDED COMPLAINT** on interested parties by placing a true and correct copy thereof enclosed in a sealed envelope, with postage fully prepaid, addressed as follows:

**SEE ATTACHED SERVICE LIST**

XXXX (BY MAIL) I caused such an envelope to be mailed by placing it for collection and mailing, in the course of ordinary business practice, with other correspondence of the Law Office of Shaun Setareh, 9454 Wilshire Boulevard, PH 1, Beverly Hills, California 90212.

\_\_\_\_ (BY PERSONAL SERVICE) My agent delivered such envelope by hand to the home/offices of the addressee.

EXECUTED on Tuesday, June 21, 2011, at Beverly Hills, California.

XXXX (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

\_\_\_\_ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

  
ASHLEY GREEN

**SERVICE LIST**

Andrew Livingston  
Orrick, Herrington & Sutcliffe LLP  
405 Howard Street  
San Francisco, CA 94105-2669

Sur La Table, Inc.  
c/o Business Filings Incorporated  
Leslie Fuller  
1232 Q Street, First Floor  
Sacramento, CA 95811

# **EXHIBIT C**

00012  
A7250

1 Shaun Setareh (SBN 204514)  
2 setarehlaw@sbcglobal.net  
3 Hayley Schwartzkopf (SBN 265131)  
4 hayley.setarehlaw@sbcglobal.net  
5 LAW OFFICES OF SHAUN SETAREH  
6 9454 Wilshire Boulevard, Penthouse Floor  
7 Beverly Hills, California 90212  
8 Telephone: (310) 888-7771  
9 Facsimile: (310) 888-0109  
10 (Additional Counsel on Following Page)

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

MAY 09 2011

John A. Clark, Executive Officer/Clerk  
BY [Signature] Deputy  
Cina Grider

11 Attorneys for Plaintiff  
12 RALF SINGH-BISCHOFBERGER

324 CCW Emilie H. Elias  
SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT  
(UNLIMITED JURISDICTION)

13 RALF SINGH-BISCHOFBERGER, on  
14 behalf of himself and all others similarly  
15 situated, and as an “aggrieved employee” on  
16 behalf of other “aggrieved employees” under  
17 the Labor Code Private Attorneys General  
18 Act of 2004,

19 Plaintiff,

20 vs.

21 SUR LA TABLE, INC., a Washington  
22 corporation; and DOES 1-50, inclusive;

23 Defendants.

Case No.

BC 461167

CLASS ACTION

**COMPLAINT FOR:**

1. Unfair Competition (Bus. & Prof. Code §§ 17200, *et seq.*);
2. Unpaid Minimum and Overtime Wages (Lab. Code §§ 1194 and 1194.2);
3. Wage Statement Penalties (Lab. Code § 226);
4. Waiting Time Penalties (Lab. Code § 203); and,
5. Civil Penalties (Lab. Code §§ 2698, *et seq.*).

**JURY TRIAL DEMANDED**

CIT/CASE: BC461167 LEA/DEF#: 0310  
RECEIPT #: CCH507417073  
DATE PAID: 05/07/11 04:39:36 P  
PAYMENT: \$395.00  
RECEIVED:  
CHECK: 395.00  
CASH:  
CHANGE:  
CARD:

**ADDITIONAL COUNSEL FOR PLAINTIFF**

David Spivak (SBN 179684)  
david@spivaklaw.com  
THE SPIVAK LAW FIRM  
9454 Wilshire Boulevard, Suite 303  
Beverly Hills, California 90212  
Telephone: (310) 499-4730  
Facsimile: (310) 499-4739

Louis Benowitz (SBN 262300)  
louis@benowitzlaw.com  
LAW OFFICES OF LOUIS BENOWITZ  
9454 Wilshire Boulevard, Penthouse Floor  
Beverly Hills, California 90212  
Telephone: (310) 888-7771  
Facsimile: (310) 888-0109

1 Plaintiff Ralf Singh-Bischofberger ("Plaintiff"), on behalf of himself and all others  
2 similarly situated, and as an "aggrieved employee" on behalf of other "aggrieved employees"  
3 under the Labor Code Private Attorneys General Act of 2004, complains and alleges as follows:

4 **INTRODUCTION**

5 1. Plaintiff brings class and representative action based on alleged violations of the  
6 Labor Code, Industrial Welfare Commission Order No. 7-2001 (hereafter "the Wage Order"),  
7 and the Business and Professions Code against defendants Sur La Table, Inc. and Does 1-50,  
8 inclusive (collectively "Defendants"). As set forth below in more detail below, Plaintiff alleges  
9 that Defendants are liable to him and similarly situated current and former hourly employees in  
10 California for unpaid wages and other related relief based on their alleged failures to pay them  
11 minimum, overtime, and meal period premium wages. Plaintiff also alleges that Defendants are  
12 liable to him and other "aggrieved employees" based on alleged failures to furnish them with  
13 suitable seating accommodations. Accordingly, Plaintiff now seeks to recover unpaid wages and  
14 related relief through this class and representative private attorney general action.

15 **JURISDICTION AND VENUE**

16 2. This Court has subject matter jurisdiction to hear this case based on Plaintiff's  
17 information and belief that relief sought herein for Defendants' alleged violations of the Labor  
18 Code, Wage Order, and Business and Professions Code exceeds the jurisdictional minimum of  
19 this Court as required under California law.

20 3. This case falls outside the scope of federal question subject matter jurisdiction in  
21 that all of the causes of action set forth herein solely arise under California law and also falls  
22 outside the scope of federal diversity subject matter jurisdiction based on Plaintiff's information  
23 and belief that no class member has a claim that places more than \$75,000 in controversy and  
24 that the aggregate claims of class members place less than \$5 million in controversy.

25 4. Venue is proper in Los Angeles County pursuant to Code of Civil Procedure  
26 Sections 395(a) and 395.5 in that liability arose in Los Angeles County because at least some of  
27 the transactions that are the subject matter of this Complaint occurred therein and/or because  
28 each defendant is found, maintains offices, transacts business, and/or has an agent therein.



**PARTIES**

5. Plaintiff is a former hourly employee of Defendants who worked in Los Angeles County, California during the one-year time period before the filing of this action.

6. Defendant Sur La Table, Inc. is a corporation organized under Washington law.

7. Plaintiff is ignorant of the true names, capacities, relationships, and extent of participation in the conduct alleged herein, of the defendants sued as Does 1-50, inclusive, but is informed and believes that said defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint to allege the true names and capacities of the Doe defendants when ascertained.

8. Plaintiff is informed and believes that one or more of the defendants referred to herein have employed persons and engaged in unlawful labor and payroll practices in California during the applicable limitations periods.

9. Plaintiff is informed and believes that each defendant acted in all respects pertinent to this action as the agent of the other defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and that the acts of each defendant are legally attributable to each of the other defendants.

**CLASS ALLEGATIONS**

10. This action has been brought and may be maintained as a class action pursuant to Code of Civil Procedure § 382 because there is a well-defined community of interest among the persons who comprise the readily ascertainable classes defined below and because Plaintiff is unaware of any difficulties likely to be encountered in managing this case as a class action.

11. The class and subclass members are defined as follows:

**Shortened Meal Period Class:** All persons who, during the period beginning four years before the filing of this action and ending when final judgment is entered, clocked out for a recorded meal period of less than 30 minutes on one or more workdays without being paid an additional hour of premium wages on one or more of those workdays.

**Overtime Wage Rate Class:** All persons who, during the period beginning four years before the filing of this action and ending when final judgment is entered, were paid overtime wages and also received commissions and/or bonuses.

1           **Premium Wage Rate Class:** All persons who, during the period  
2           beginning four years before the filing of this action and ending when final  
3           judgment is entered, were paid meal and/or rest period premium wages  
            and also received commissions and/or bonuses.

4           **Waiting Time Penalties Class:** All **Shortened Meal Period Class**  
5           **Overtime Wage Rate Class**, and/or **Premium Wage Rate Class**  
6           members who voluntarily or involuntarily separated from their  
7           employment with Defendants during the period beginning three years  
            before the filing of this action and ending when final judgment is entered.

8           **Wage Statement Penalties Class:** All **Shortened Meal Period Class**,  
9           **Overtime Wage Rate Class**, and/or **Premium Wage Rate Class**  
10          members employed by Defendants in California during the period  
            beginning one year before the filing of this action and ending when final  
            judgment is entered.

11          12. Pursuant to Rule of Court 3.765(b), Plaintiff reserves the right to amend or  
12          modify the class definitions with greater specificity, by further division into subclasses, and/or  
13          by limitation to particular issues.

14          13. The class members are so numerous that the individual joinder of each individual  
15          class member is impractical. While Plaintiff does not currently know the exact number of class  
16          members, Plaintiff is informed and believes that the actual number of class members exceeds  
17          the minimum number required for numerosity under California law.

18          14. Common questions of law and fact exist as to all class members and predominate  
19          over any questions which only affect individual class members, including, but not limited to:

- 20               A. Whether Section 11(A) of the Wage Order requires Defendants to count  
21               recorded meal periods that are less than 30 minutes as "time worked" for  
22               **Shortened Meal Period Class** members?
- 23               B. Whether Labor Code § 226.7(b) requires Defendants to pay premium  
24               wages to **Shortened Meal Period Class** members for recorded meal  
25               periods of less than 30 minutes?
- 26               C. Whether Defendants failed to include commissions and non-discretionary  
27               bonuses in calculating regular rates of pay when paying overtime wages  
28               to **Overtime Wage Rate Class** members?

- 1 D. Whether Defendants are required to include commissions and non-  
2 discretionary bonuses in calculating the "regular rate of compensation"  
3 under Labor Code § 226.7(b) when paying premium wages to **Premium**  
4 **Wage Rate Class** members?
- 5 E. Whether Defendants may have acquired money or property by means of  
6 unfair competition in the forms of earned minimum, overtime, and/or  
7 premium wages from **Shortened Meal Period Class** and **Premium**  
8 **Wage Rate Class** members?
- 9 F. Whether Defendants willfully failed to timely pay earned and unpaid  
10 wages to **Waiting Time Penalties Class** members?
- 11 G. Whether Defendants knowingly and intentionally failed to provide **Wage**  
12 **Statement Penalties Class** members with accurate wage statements?

13 15. Plaintiff's claims are typical of the other class members' claims. Plaintiff is  
14 informed and believes that Defendants have policies or practices of failing to comply with the  
15 Labor Code, Wage Order, and Business and Professions Code as alleged herein.

16 16. Plaintiff will fairly and adequately represent and protect the interests of class  
17 members in that he has no interests adverse to those of absent class members and is represented  
18 by counsel with experience in employment and class action litigation.

19 17. A class action is vastly superior to other available means for fair and efficient  
20 adjudication of the class members' claims and would be beneficial to the parties and the Court.  
21 Class action treatment will allow a number of similarly situated persons to simultaneously and  
22 efficiently prosecute their common claims in a single forum without the unnecessary duplication  
23 of effort and expense that numerous individual actions would entail. In addition, the monetary  
24 amounts due to many individual class members are likely to be relatively small and would thus  
25 make it difficult, if not impossible, for individual class members to both seek and obtain relief.  
26 Moreover, a class action will serve an important public interest by permitting class members to  
27 effectively pursue the recovery of moneys owed to them. Further, a class action will prevent the  
28 potential for inconsistent or contradictory judgments inherent in individual litigation.

**FIRST CAUSE OF ACTION**

**UNFAIR COMPETITION**

**(Bus. & Prof. Code §§ 17200, et seq.)**

**(By Plaintiff, the Shortened Meal Period Class, the Overtime Wage Rate Class,  
and the Premium Wage Rate Class)**

18. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

19. Business and Professions Code § 17200 defines "unfair competition" to include  
any unlawful business practice.

20. Business and Professions Code §§ 17203–17204 allow a person who has lost  
money or property as a result of unfair competition to bring a class action in accordance with  
Code of Civil Procedure § 382 to recover money or property that may have been acquired from  
similarly situated persons by means of unfair competition.

***Shortened Meal Period Class***

21. At all relevant times, Plaintiff and Shortened Meal Period Class members have  
been non-exempt employees of Defendants and entitled to the full protections of both the Labor  
Code and the Wage Order.

22. Labor Code § 204 requires employers to timely pay earned wages to their  
employees for all labor that their employees normally perform by no later than the regularly  
scheduled payday for that pay period and for all labor in excess of that which their employees  
normally perform by no later than the regularly scheduled payday for the next pay period.

23. Labor Code §§ 223, 510, 1194, 1197, and 1198, and Sections 3 and 4 of the  
Wage Order require an employer to pay a non-exempt employee no less than minimum wage  
for all hours worked, no less than one and one-half times the employee's regular rate of pay for  
all hours worked in excess of 8 hours in one workday, in excess of 40 hours in one workweek,  
and for the first 8 hours worked on a seventh consecutive workday, and at no less than twice the  
employee's regular rate of pay for all hours worked in excess of 12 hours in a workday and/or in  
excess of 8 hours on a seventh consecutive workday.

///

1           24. Labor Code § 512 and Section 11 of the Wage Order both require employers to  
2 provide their employees with meal periods of no less than 30 minutes for each work period of 5  
3 or more hours, including two meal periods of no less than 30 minutes for each work period of  
4 more than 10 hours.

5           25. In relevant part, Section 11(C) of the Wage Order states, "Unless [an] employee  
6 is relieved of all duty during a 30 minute meal period, the meal period shall be considered an  
7 "on duty" meal period and counted as time worked."

8           26. Both Labor Code § 226.7 and Section 11 of the Wage Order require an employer  
9 to pay a non-exempt employee an additional hour of wages at the employee's regular rate of  
10 compensation on each workday that the employee is not provided with a required meal period in  
11 violation of the Wage Order.

12           27. At all relevant times, and in violation of the above-referenced sections of the  
13 Labor Code and the Wage Order, Plaintiff recorded meal periods of less than 30 minutes  
14 without being paid minimum and/or overtime wages for the time they were clocked out from  
15 work on those workdays and without being paid premium wages on those workdays.

16           28. Plaintiff is informed and believes that, at all relevant times, and in violation of  
17 the above-referenced sections of the Labor Code and the Wage Order, **Shortened Meal Period**  
18 **Class** members recorded meal periods of less than 30 minutes without being paid minimum  
19 and/or overtime wages for the time they were clocked out from work on those workdays and  
20 without being paid premium wages on those workdays.

21                           ***Overtime Wage Rate Class & Premium Wage Rate Class***

22           29. California law uses the terms "compensation" and "pay" interchangeably and  
23 requires that all applicable remuneration, including, but not limited to, non-discretionary  
24 bonuses, be included when calculating a non-exempt employee's regular rate of pay.

25           30. At all relevant times, Defendants paid Plaintiff overtime wages based on a rate of  
26 pay that did not reflect commissions and non-discretionary bonuses rather than based on a  
27 regular rate of pay that was correctly calculated to reflect those amounts as Labor Code § 510  
28 and Section 3 of the Wage Order require.

1           31. Plaintiff is informed and believes that, at all relevant times, Defendants have paid  
2 **Overtime Wage Rate Class** members overtime wages based on rates of pay that have not  
3 reflected commissions and non-discretionary bonuses rather than based on regular rates of pay  
4 that were correctly calculated to reflect those amounts as Labor Code § 510 and Section 3 of the  
5 Wage Order require.

6           32. At all relevant times, Defendants paid Plaintiff premium wages based on a rate of  
7 compensation that did not reflect commissions and non-discretionary bonuses rather than based  
8 on a regular rate of compensation that was correctly calculated to reflect those amounts as Labor  
9 Code § 226.7(b) and Section 11(D) of the Wage Order both require.

10           33. Plaintiff is informed and believes that, at all relevant times, Defendants have paid  
11 **Premium Wage Rate Class** members premium wages based on rates of compensation that  
12 have not reflected commissions and non-discretionary bonuses rather than based on regular  
13 rates of compensation that were correctly calculated to reflect those amounts as Labor Code §  
14 226.7(b) and Section 11(D) of the Wage Order both require.

15 *Relief Sought*

16           34. Pursuant to Business and Professions Code §§ 17203–17204, Plaintiff, on behalf  
17 of himself, the **Shortened Meal Period Class**, **Overtime Wage Rate Class**, and the **Premium**  
18 **Wage Rate Class**, seeks an order awarding restitution of unpaid wages that Defendants  
19 acquired, or may have acquired, by means of unfair competition in amounts subject to proof.

20           35. Pursuant to Code of Civil Procedure § 1021.5, the substantial benefit doctrine,  
21 and/or the common fund doctrine, Plaintiff, on behalf of himself, the **Shortened Meal Period**  
22 **Class**, **Overtime Wage Rate Class**, and the **Premium Wage Rate Class**, seeks awards of  
23 reasonable costs and attorneys' fees in amounts subject to proof.

24 **SECOND CAUSE OF ACTION**

25 **FAILURE TO PAY MINIMUM AND OVERTIME WAGES**

26 **(Lab. Code §§ 1194 and 1194.2)**

27 **(By Plaintiff, the Shortened Meal Period Class, and the Overtime Wage Rate Class)**

28           36. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

1           37. Pursuant to Labor Code §§ 1194 and 1194.2, Plaintiff, on behalf of himself, the  
2 **Shortened Meal Period Class**, and the **Overtime Wage Rate Class**, seeks to recover earned  
3 and unpaid minimum and overtime wages, interest thereon, liquidated damages, and awards of  
4 reasonable costs and attorneys' fees, all in amounts subject to proof.

5                           **THIRD CAUSE OF ACTION**

6                           **WAITING TIME PENALTIES**

7                           **(Lab. Code § 203)**

8                           **(By Plaintiff and the Waiting Time Penalties Class)**

9           38. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

10          39. Labor Code § 201 provides that all of the earned and unpaid wages of an  
11 employee who is discharged become due and payable immediately at the time of discharge.

12          40. Labor Code § 202 provides that all of the earned and unpaid wages of an  
13 employee who quits become due and payable at the time of quitting if the employee gives at  
14 least 72-hours notice before quitting, or within 72 hours of quitting if the employee gives less  
15 than 72-hours notice before quitting.

16          41. Defendants failed to timely pay Plaintiff earned and unpaid minimum, overtime,  
17 and premium wages after he was discharged in violation of Labor Code § 201.

18          42. Plaintiff is informed and believes that Defendants have failed to timely pay  
19 **Waiting Time Penalties Class** members earned and unpaid minimum, overtime, and/or  
20 premium wages after quitting or discharge in violation of Labor Code § 201 or § 202.

21          43. Labor Code § 203 provides that the wages of an employee shall continue as a  
22 penalty from the due date until the wages are paid for up to 30 days where an employer willfully  
23 fails to timely pay any amount of earned and unpaid wages in violation of California Labor  
24 Code § 201 or § 202.

25          44. Plaintiff is informed and believes that Defendants' failures to pay minimum,  
26 overtime, and/or premium wages to him and **Waiting Time Penalties Class** members have  
27 been willful in that Defendants have the ability to pay said wages in conformity with the Labor  
28 Code and the Wage Order but have deliberately adopted payroll policies and practices that are

1 inconsistent with those requirements.

2 45. Pursuant to Labor Code § 203, Plaintiff, on behalf of himself and the **Waiting**  
3 **Time Penalties Class**, seeks to recover up to 30 days of waiting time penalties per employee in  
4 amounts subject to proof.

5 **FOURTH CAUSE OF ACTION**

6 **WAGE STATEMENT PENALTIES**

7 (Lab. Code § 226)

8 (By Plaintiff and the Wage Statement Penalties Class)

9 46. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

10 47. Pursuant to Labor Code § 226(a), Defendants have been obliged to provide  
11 Plaintiff and **Wage Statement Penalties Class** members, either semimonthly or at the time of  
12 each payment of wages, accurate itemized statement showing, among other things, all  
13 applicable hourly rates of pay in effect during the pay period, their corresponding number of  
14 hours worked at each applicable rate, and gross and net wages earned.

15 48. By failing to pay minimum, overtime, and premium wages to Plaintiff as set  
16 forth above, Defendants have furnished him with written wage statements that do not accurately  
17 reflect all of his applicable rates of pay, hours worked, corresponding wages earned at each  
18 applicable rate, and amounts of gross and net wages.

19 49. Plaintiff is informed and believes that by failing to pay minimum, overtime,  
20 and/or premium wages to **Wage Statement Penalties Class** members as set forth above,  
21 Defendants have furnished them with written wage statements that do not accurately reflect all  
22 of their applicable rates of pay, hours worked, corresponding wages earned at each applicable  
23 rate, and amounts of gross and net wages.

24 50. Plaintiff is informed and believes that Defendants' failures to provide him and  
25 **Wage Statement Penalties Class** members with accurate wage statements have been  
26 intentional, in that Defendants have, at all relevant times, had the ability to provide them with  
27 accurate wage statements but, instead, have intentionally provided them with inaccurate wage  
28 statements as a result of not correctly calculating their applicable rates of pay, hours worked,



1 corresponding wages earned at each applicable rate, and amounts of gross and net wages.

2 51. Plaintiff and Wage Statement Penalties Class members have suffered injuries  
3 due to Defendants' failures to provide them with accurate written wage statements. Their legal  
4 rights to receive accurate wage statements have been violated and they have been misled about  
5 the rates at which their wages are to be paid and the amounts of wages they have been paid. In  
6 addition, the absence of accurate information has prevented immediate challenges to allegedly  
7 unlawful pay practices, has required discovery and mathematical computations to determine the  
8 amount of wages owed, has caused difficulty and expense in attempting to reconstruct time and  
9 pay records, and/or has caused inaccurate information about wages and wage deductions to be  
10 submitted to government agencies.

11 52. Pursuant to Labor Code § 226(e), Plaintiff, on behalf of himself and the Wage  
12 Statement Penalties Class, seeks to recover the greater of actual damages or \$50 for the initial  
13 pay period in which a § 226(a) violation occurred, the greater of actual damages or \$100 for  
14 each violation of Labor Code Section 226(a) in a subsequent pay period, up to the greater of  
15 actual damages or a aggregate \$4,000 penalty per class member, as well as awards of reasonable  
16 attorneys' fees and costs, all in amounts subject to proof.

17 **SIXTH CAUSE OF ACTION**

18 **CIVIL PENALTIES**

19 **(Lab. Code §§ 2698, *et seq.*)**

20 53. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

21 54. During the applicable limitations period, Defendants have violated Labor Code  
22 §§ 201, 202, 203, 204, 223, 226(a), 226.7, 510, 512, 1194, 1197, and 1198.

23 55. Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of  
24 herself and other current and former employees, to bring a representative civil action to recover  
25 civil penalties pursuant to the procedures specified in Labor Code § 2699.3 that may, but need  
26 not, be brought or maintained as a class action pursuant to Code of Civil Procedure § 382.

27 56. Plaintiff, as a former employee against whom Defendants committed one or  
28 more of the alleged Labor Code violations during the applicable limitations period, is an

1 aggrieved employee within the meaning of Labor Code § 2699(c).

2 57. Plaintiff has complied with the procedures for bringing suit specified in Labor  
3 Code § 2699.3. By letter dated March 28, 2011, Plaintiff gave written notice via certified mail  
4 to the Labor and Workforce Development Agency ("LWDA") and Defendants of the specific  
5 provisions of the Labor Code alleged to have been violated, including the facts and theories to  
6 support the alleged violations. More than 33 days have passed since the date of Plaintiff's letter  
7 and the LWDA has not informed Plaintiff that it intends to investigate the alleged violations.

8 ***Failures to Provide Suitable Seats***

9 58. In addition to the violations of the Labor Code set forth above, Defendants have  
10 also violated Labor Code § 1198, which prohibits the employment of persons under conditions  
11 that violate the Wage Order.

12 59. Specifically, Section 14 of the Wage Order provides,

13 (A) All working employees shall be provided with suitable seats when the  
14 nature of the work reasonably permits the use of seats.

15 (B) When employees are not engaged in the active duties of their  
16 employment and the nature of the work requires standing, an adequate  
17 number of suitable seats shall be placed in reasonable proximity to the  
18 work area and employees shall be permitted to use such seats when it does  
19 not interfere with the performance of their duties.

20 60. At all relevant times during his employment, Defendants did not provide Plaintiff  
21 with suitable seats when he performed job duties that allowed for the use of such seats, such as  
22 operating a cash register, did not place an adequate number of suitable seats within a reasonable  
23 proximity to his work area when he performed job duties that required him to stand, such as  
24 cooking, and, in fact, did not permit him to use a seat except during breaks.

25 61. Plaintiff is informed and believes that, at all relevant times, Defendants have not  
26 provide other aggrieved employees with suitable seats when they have performed job duties that  
27 allow for the use of such seats, such as operating cash registers, have not placed an adequate  
28 number of suitable seats within a reasonable proximity to their work areas when they have  
performed job duties that have required them to stand, such as cooking, and, in fact, have not

1 permitted them to use seats except during breaks.

2 ***Civil Penalties Sought Based on All Alleged Labor Code Violations***

3 62. Pursuant to Labor Code §§ 2699(a) and (f), Plaintiff seeks the following civil  
4 penalties for Defendants' violations of Labor Code §§, 201, 202, 203, 204, 223, 226(a), 226.7,  
5 510, 512, 1194, 1197, and 1198:

- 6 A. For violations of Labor Code §§ 201, 202, 203, 226.7, 1194, and 1198,  
7 \$100 for each employee per pay period for each initial violation and \$200  
8 for each employee per pay period for each subsequent violation (penalties  
9 set by Labor Code § 2699(f)(2));
- 10 B. For violations of Labor Code § 204, \$100 for each employee for each  
11 initial violation that was neither willful nor intentional, \$200 for each  
12 employee, plus 25% of the amount unlawfully withheld from each  
13 employee, for each initial violation that was either willful or intentional,  
14 and \$200 for each employee, plus 25% of the amount unlawfully  
15 withheld from each employee, for each subsequent violation, regardless  
16 of whether the subsequent violation was either willful or intentional  
17 (penalties set by Labor Code § 210);
- 18 C. For violations of Labor Code § 223, \$100 for each employee for each  
19 initial violation that was neither willful nor intentional, \$200 for each  
20 employee, plus 25% of the amount unlawfully withheld from each  
21 employee, for each initial violation that was either willful or intentional,  
22 and \$200 for each employee, plus 25% of the amount unlawfully  
23 withheld from each employee, for each subsequent violation, regardless  
24 of whether the subsequent violation was either willful or intentional  
25 (penalties set by Labor Code § 225.5);
- 26 D. For violations of Labor Code § 226(a), if this action is deemed to be an  
27 initial citation, \$250 for each employee for each violation. Alternatively,  
28 if an initial citation or its equivalent occurred before the filing of this

1 action, \$1,000 for each employee for each violation (penalties set by  
2 Labor Code § 226.3);

3 E. For violations of Labor Code §§ 510 and 512, \$50 for each employee for  
4 each initial pay period for which the employee was underpaid, and \$100  
5 for each employee for each subsequent pay period for which the  
6 employee was underpaid (penalties set by Labor Code § 558); and

7 F. For violations of Labor Code § 1197, \$100 for each aggrieved employee  
8 for each initial violation of Labor Code § 1197 that was intentional, and  
9 \$250 for each aggrieved employee per pay period for each subsequent  
10 violation of § 1197, regardless of whether the initial violation was  
11 intentional (penalties set by Labor Code § 1197.1).

12 63. Pursuant to Labor Code § 2699(g), Plaintiff seeks awards of reasonable costs and  
13 attorneys' fees in connection with his claims for civil penalties.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated, and as an  
16 "aggrieved employee" on behalf of other "aggrieved employees," prays for relief and judgment  
17 against Defendants as follows:

- 18 A. An order that the action be certified as a class action;  
19 B. An order that Plaintiff be appointed class representative;  
20 C. An order that counsel for Plaintiff be appointed class counsel;  
21 D. Damages;  
22 E. Restitution;  
23 F. Declaratory relief;  
24 G. Injunctive relief;  
25 H. Civil penalties;  
26 I. Statutory penalties;  
27 J. Pre-judgment interest;  
28 K. Costs of suit;

1 L. Reasonable attorney's fees; and

2 M. Such other relief as the Court deems just and proper.

3 **DEMAND FOR JURY TRIAL**

4 Plaintiff, on behalf of himself and all others similarly situated, and as an "aggrieved  
5 employee" on behalf of other "aggrieved employees," hereby demands a jury trial on all issues  
6 so triable.

7 Respectfully submitted,

8 LAW OFFICES OF SHAUN SETAREH  
9 THE SPIVAK LAW FIRM  
10 LAW OFFICES OF LOUIS BENOWITZ

11 Dated: May 5, 2011

12 BY

13   
14 SHAUN SETAREH  
15 Attorneys for Plaintiff  
16 RALF SINGH-BISCHOFBERGER  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

<b>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):</b> Shaun Setareh (SBN 204514) Law Office of Shaun Setareh 9454 Wilshire Blvd., Penthouse Suite Beverly Hills, California 90212 TELEPHONE NO.: 310-888-7771 FAX NO.: 310-888-0109 <b>ATTORNEY FOR (Name):</b> Ralf Singh-Bischofberger		<b>CM-010</b>  <b>FOR COURT USE ONLY</b>  <b>FILED</b> <b>SUPERIOR COURT OF CALIFORNIA</b> <b>COUNTY OF LOS ANGELES</b>  <b>MAY 09 2011</b>  John A. Clarke, Executive Officer/Clerk BY <u>[Signature]</u> Deputy Clerk Under				
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> Los Angeles <b>STREET ADDRESS:</b> 111 North Hill Street <b>MAILING ADDRESS:</b> <b>CITY AND ZIP CODE:</b> Los Angeles, CA 90012 <b>BRANCH NAME:</b> Stanley Mosk		<b>CASE NUMBER:</b> <b>BC 461167</b>  <b>JUDGE:</b> <b>DEPT:</b>				
<b>CASE NAME:</b> Singh-Bischofberger v. Sur La Table, Inc.						
<b>CIVIL CASE COVER SHEET</b> <table style="width: 100%;"><tr><td><input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000)</td><td><input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less)</td></tr></table>		<input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000)	<input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less)	<b>Complex Case Designation</b> <table style="width: 100%;"><tr><td><input type="checkbox"/> <b>Counter</b></td><td><input type="checkbox"/> <b>Joinder</b></td></tr></table> <p>Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)</p>	<input type="checkbox"/> <b>Counter</b>	<input type="checkbox"/> <b>Joinder</b>
<input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000)	<input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less)					
<input type="checkbox"/> <b>Counter</b>	<input type="checkbox"/> <b>Joinder</b>					

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PIPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIPD/WD (23) <b>Non-PIPD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIPD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation</b> (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
---	--	---

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify):

5. This case ☒ is ☐ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: May 6, 2011  
Shaun Setareh, Esq.

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

<b>NOTICE</b>	
<ul style="list-style-type: none"><li>• Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.</li><li>• File this cover sheet in addition to any cover sheet required by local court rule.</li><li>• If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.</li><li>• Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.</li></ul>	
Form Adopted for Mandatory Use Judicial Council of California CM-010 [Rev. July 1, 2007]	<b>CIVIL CASE COVER SHEET</b> <small>Cal. Rules of Court, rules 2.30, 3.220, 3.400-3.403, 3.740; Cal. Standards of Judicial Administration, std. 3.10 www.courtinfo.ca.gov</small>

SHORT TITLE: Singh-Bischofberger v. Sur La Table	CASE NUMBER BC 461167
---	--------------------------

**CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION  
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

**This form is required pursuant to LASC Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.**

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? ☒ YES CLASS ACTION? ☒ YES LIMITED CASE? ☐ YES TIME ESTIMATED FOR TRIAL 21 ☐ HOURS/ ☒ DAYS

Item II. Select the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

**Step 1:** After first completing the Civil Case Cover Sheet Form, find the main civil case cover sheet heading for your case in the left margin below, and, to the right in Column A, the Civil Case Cover Sheet case type you selected.

**Step 2:** Check one Superior Court type of action in Column B below which best describes the nature of this case.

**Step 3:** In Column C, circle the reason for the court location choice that applies to the type of action you have checked.  
For any exception to the court location, see Los Angeles Superior Court Local Rule 2.0.

**Applicable Reasons for Choosing Courthouse Location (see Column C below)**

- |   |  |
|---|--|
| 1. Class Actions must be filed in the County Courthouse, Central District.      | 6. Location of property or permanently garaged vehicle.    |
| 2. May be filed in Central (Other county, or no Bodily Injury/Property Damage). | 7. Location where petitioner resides.                      |
| 3. Location where cause of action arose.  | 8. Location wherein defendant/respondent functions wholly. |
| 4. Location where bodily injury, death or damage occurred.                      | 9. Location where one or more of the parties reside.       |
| 5. Location where performance required or defendant resides.                    | 10. Location of Labor Commissioner Office.                 |

**Step 4:** Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death - Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A8070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 2., 4. 1., 2., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	<input checked="" type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1., 2., 4.
		<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1., 2., 4.
<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress		1., 2., 3.	
<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death		1., 2., 4.	
Non-Personal Injury/Property Damage/Wrongful Death Tort	Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 2., 3.
	Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
	Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.



Non-Personal Injury/Property Damage/  
Wrongful Death Tort (Cont'd.)

Employment

Contract

Real Property

Unlawful Detainer

Judicial Review

SHORT TITLE: Singh-Bischofberger v. Sur La Table		CASE NUMBER
A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons -See Step 3 Above
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	<input checked="" type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1., 2., 3. 10.
Breach of Contract/ Warranty (08) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not Unlawful Detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6. 2., 6. 2., 6.
Unlawful Detainer- Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer- Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer- Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.
Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.



SHORT TITLE: Singh-Bischofberger v. Sur La Table		CASE NUMBER
---	--	-------------

Judicial Review (Cont'd.)	<b>A</b> Civil Case Cover Sheet Category No.	<b>B</b> Type of Action (Check only one)	<b>C</b> Applicable Reasons - See Step 3 Above
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
Provisionally Complex Litigation	Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.
	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction defect	1., 2., 3.
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
Enforcement of Judgment	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.
Miscellaneous Civil Complaints	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
	Partnership Corporation Governance(21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
Miscellaneous Civil Petitions	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.

SHORT TITLE: Singh-Bischofberger v. Sur La Table	CASE NUMBER
---	-------------

Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: CHECK THE NUMBER UNDER COLUMN C WHICH APPLIES IN THIS CASE <input type="checkbox"/> 1. <input type="checkbox"/> 2. <input type="checkbox"/> 3. <input checked="" type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.		ADDRESS: 111 North Hill Stree
CITY: Los Angeles	STATE: CA	ZIP CODE: 90012

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Stanley Mosk courthouse in the Central District of the Los Angeles Superior Court (Code Civ. Proc., § 392 et seq., and LASC Local Rule 2.0, subds. (b), (c) and (d)).

Dated: March 6, 2011

  
(SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet form CM-010.
4. Complete Addendum to Civil Case Cover Sheet form LACIV 109 (Rev. 01/07), LASC Approved 03-04.
5. Payment in full of the filing fee, unless fees have been waived.
6. Signed order appointing the Guardian ad Litem, JC form FL-935, if the plaintiff or petitioner is a minor under 18 years of age, or if required by Court.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

SUM-100

**SUMMONS  
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

SUR LA TABLE, INC., a Washington corporation; and DOES 1-50, inclusive

**YOU ARE BEING SUED BY PLAINTIFF: RALF SINGH-BISCHOFBERGER, on  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):** behalf of himself and all others  
similarly situated, and as an "aggrieved employee" on behalf of other "aggrieved  
employees" under the Labor Code Private Attorneys General Act of 2004

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

**MAY 20 2011**

John A. Clarke, Executive Officer/Clerk  
BY Shaunya Wesley, Deputy

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es):  
Superior Court of California, County of Los Angeles  
111 North Hill Street

Los Angeles, California 90012

The name, address, and telephone number of plaintiff's attorney, if plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

LAW OFFICES OF SHAUN SETAREH  
9454 Wilshire Blvd, Penthouse Floor, Beverly Hills, CA 90212

DATE:  
(Fecha)

**MAY 20 2011**

Clerk, by  
(Secretario)

3108887771

Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para probar la entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)

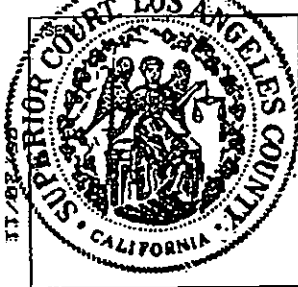
**NOTICE TO THE PERSON SERVED: You are served**

1. ☐ as an individual defendant.  
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):

4. ☐ by personal delivery on (date):



POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Shaun Setareh, SBN 204514 Law Office of Shaun Setareh 9454 Wilshire Blvd., PH 1 Beverly Hills, CA 90212 TELEPHONE NO.: (310) 888-7771 ATTORNEY FOR (Name) Plaintiff		FOR COURT USE ONLY <b>FILED</b> LOS ANGELES SUPERIOR COURT JUN 09 2011 JOHN A. CLARKE, CLERK BY RAUL SANCHEZ, DEPUTY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Superior Court of California, Los Angeles County 111 N. Hill Street Los Angeles, CA 90012-3117			
PLAINTIFF/PETITIONER: Ralf Singh-Bischofberger, et al. DEFENDANT/RESPONDENT: Sur La Table, Inc., et al.		CASE NUMBER: BC461167 <b>D324</b>	
<b>PROOF OF SERVICE OF SUMMONS</b>		Ref. No. or File No.: Sur La Table <b>D-15</b>	

- At the time of service I was a citizen of the United States, at least 18 years of age and not a party to this action.
- I served copies of: Summons, Complaint, Civil Case Cover Sheet, Civil Case Cover Sheet Addendum, Voluntary Efficient Litigation Stipulations
- a. Party served: Sur La Table, Inc., a Washington corporation  
 b. Person Served: Business Filings Incorporated, Leslie Fuller - Person authorized to accept service of process
- Address where the party was served: 1232 Q St., 1st Floor  
Sacramento, CA 95811
- I served the party
  - by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) or (date): 6/1/2011 (2) at (time): 12:51 PM
- The "Notice to the Person Served" (on the summons) was completed as follows:
  - on behalf of:

Sur La Table, Inc., a Washington corporation

under: CCP 416.10 (corporation)

7. Person who served papers

- Name: Jermaine deJose
- Address: One Legal - 194-Marin  
504 Redwood Blvd #223  
Novato, CA 94947
- Telephone number: 415-491-0606
- The fee for service was: \$ 62.00
- I am:
  - (3) registered California process server.
  - (i) Employee or independent contractor.
  - (ii) Registration No.: 2008-47
  - (iii) County SACRAMENTO

**BY FAX**

8. I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Date: 6/1/2011

Jermaine deJose

(NAME OF PERSON WHO SERVED PAPERS)

(SIGNATURE)

Code of Civil Procedure, § 417.10

1 Shaun Setareh (SBN 204514)  
2 setarehlaw@sbcglobal.net  
3 Hayley Schwartzkopf (SBN 265131)  
4 hayley.setarehlaw@sbcglobal.net  
5 LAW OFFICES OF SHAUN SETAREH  
6 9454 Wilshire Boulevard, Penthouse Floor  
7 Beverly Hills, California 90212  
8 Telephone: (310) 888-7771  
9 Facsimile: (310) 888-0109  
10 (Additional Counsel on Following Page)

11 Attorneys for Plaintiff  
12 RALF SINGH-BISCHOFBERGER

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT  
(UNLIMITED JURISDICTION)**

RALF SINGH-BISCHOFBERGER, on  
behalf of himself and all others similarly  
situated, and as an “aggrieved employee” on  
behalf of other “aggrieved employees” under  
the Labor Code Private Attorneys General  
Act of 2004,

Plaintiff,

vs.

SUR LA TABLE, INC., a Washington  
corporation; and DOES 1-50, inclusive,

Defendants.

Case No. BC 461167

**CLASS ACTION**

**PLAINTIFF'S FIRST AMENDED  
COMPLAINT FOR:**

1. Unfair Competition (Bus. & Prof. Code §§ 17200, *et seq.*);
2. Unpaid Minimum and Overtime Wages (Lab. Code §§ 1194 and 1194.2);
3. Wage Statement Penalties (Lab. Code § 226);
4. Waiting Time Penalties (Lab. Code § 203); and,
5. Civil Penalties (Lab. Code §§ 2698, *et seq.*).

**JURY TRIAL DEMANDED**

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

JUN 22 2011

John A. Clarke, Executive Officer/Clerk  
By Amber Lafleur-Clayton Deputy  
AMBER LAFLEUR-CLAYTON

**ADDITIONAL COUNSEL FOR PLAINTIFF**

David Spivak (SBN 179684)  
david@spivaklaw.com  
THE SPIVAK LAW FIRM  
9454 Wilshire Boulevard, Suite 303  
Beverly Hills, California 90212  
Telephone: (310) 499-4730  
Facsimile: (310) 499-4739

Louis Benowitz (SBN 262300)  
louis@benowitzlaw.com  
LAW OFFICES OF LOUIS BENOWITZ  
9454 Wilshire Boulevard, Penthouse Floor  
Beverly Hills, California 90212  
Telephone: (310) 888-7771  
Facsimile: (310) 888-0109

1 Plaintiff Ralf Singh-Bischofberger ("Plaintiff"), on behalf of himself and all others  
2 similarly situated, and as an "aggrieved employee" on behalf of other "aggrieved employees"  
3 under the Labor Code Private Attorneys General Act of 2004, complains and alleges as follows:

4 **INTRODUCTION**

5 1. Plaintiff brings class and representative action based on alleged violations of the  
6 Labor Code, Industrial Welfare Commission Order No. 7-2001 (hereafter "the Wage Order"),  
7 and the Business and Professions Code against defendants Sur La Table, Inc. and Does 1-50,  
8 inclusive (collectively "Defendants"). As set forth below in more detail below, Plaintiff alleges  
9 that Defendants are liable to him and similarly situated current and former hourly employees in  
10 California for unpaid wages and other related relief based on their alleged failures to pay them  
11 minimum, overtime, and meal period premium wages. Plaintiff also alleges that Defendants are  
12 liable to him and other "aggrieved employees" based on alleged failures to furnish them with  
13 suitable seating accommodations. Accordingly, Plaintiff now seeks to recover unpaid wages and  
14 related relief through this class and representative private attorney general action.

15 **JURISDICTION AND VENUE**

16 2. This Court has subject matter jurisdiction to hear this case based on Plaintiff's  
17 information and belief that relief sought herein for Defendants' alleged violations of the Labor  
18 Code, Wage Order, and Business and Professions Code exceeds the jurisdictional minimum of  
19 this Court as required under California law.

20 3. This case falls outside the scope of federal question subject matter jurisdiction in  
21 that all of the causes of action set forth herein solely arise under California law and also falls  
22 outside the scope of federal diversity subject matter jurisdiction based on Plaintiff's information  
23 and belief that no class member has a claim that places more than \$75,000 in controversy and  
24 that the aggregate claims of class members place less than \$5 million in controversy.

25 4. Venue is proper in Los Angeles County pursuant to Code of Civil Procedure  
26 Sections 395(a) and 395.5 in that liability arose in Los Angeles County because at least some of  
27 the transactions that are the subject matter of this Complaint occurred therein and/or because  
28 each defendant is found, maintains offices, transacts business, and/or has an agent therein.

**PARTIES**

5. Plaintiff is a former hourly employee of Defendants who worked in Los Angeles County, California during the one-year time period before the filing of this action.

6. Defendant Sur La Table, Inc. is a corporation organized under Washington law.

7. Plaintiff is ignorant of the true names, capacities, relationships, and extent of participation in the conduct alleged herein, of the defendants sued as Does 1-50, inclusive, but is informed and believes that said defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint to allege the true names and capacities of the Doe defendants when ascertained.

8. Plaintiff is informed and believes that one or more of the defendants referred to herein have employed persons and engaged in unlawful labor and payroll practices in California during the applicable limitations periods.

9. Plaintiff is informed and believes that each defendant acted in all respects pertinent to this action as the agent of the other defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and that the acts of each defendant are legally attributable to each of the other defendants.

**CLASS ALLEGATIONS**

10. This action has been brought and may be maintained as a class action pursuant to Code of Civil Procedure § 382 because there is a well-defined community of interest among the persons who comprise the readily ascertainable classes defined below and because Plaintiff is unaware of any difficulties likely to be encountered in managing this case as a class action.

11. The class and subclass members are defined as follows:

**Shortened Meal Period Class:** All persons who, during the period beginning four years before the filing of this action and ending when final judgment is entered, clocked out for a recorded meal period of less than 30 minutes on one or more workdays without being paid an additional hour of premium wages on one or more of those workdays.

**Overtime Wage Rate Class:** All persons who, during the period beginning four years before the filing of this action and ending when final judgment is entered, were paid overtime wages and also received commissions and/or bonuses.



1           **Premium Wage Rate Class:** All persons who, during the period  
2           beginning four years before the filing of this action and ending when final  
3           judgment is entered, were paid meal and/or rest period premium wages  
          and also received commissions and/or bonuses.

4           **Waiting Time Penalties Class:** All **Shortened Meal Period Class**  
5           **Overtime Wage Rate Class,** and/or **Premium Wage Rate Class**  
6           members who voluntarily or involuntarily separated from their  
7           employment with Defendants during the period beginning three years  
          before the filing of this action and ending when final judgment is entered.

8           **Wage Statement Penalties Class:** All **Shortened Meal Period Class,**  
9           **Overtime Wage Rate Class,** and/or **Premium Wage Rate Class**  
10          members employed by Defendants in California during the period  
          beginning one year before the filing of this action and ending when final  
          judgment is entered.

11          12.   The membership of the above-defined classes and subclasses shall not include  
12          any persons whose relevant claims have completely been extinguished through any previous  
13          settlement or adjudication. In addition, and subject to the aforementioned limitation, the claims  
14          asserted on behalf of persons who are members of the above-defined classes and subclasses  
15          shall not include any claims asserted on their behalf in this action to the extent that they have  
16          been extinguished through any previous settlement or adjudication, but shall include any and all  
17          claims asserted on their behalf in this action to the extent they have not been extinguished.

18          13.   Pursuant to Rule of Court 3.765(b), Plaintiff reserves the right to amend or  
19          modify the class definitions with greater specificity, by further division into subclasses, and/or  
20          by limitation to particular issues.

21          14.   The class members are so numerous that the individual joinder of each individual  
22          class member is impractical. While Plaintiff does not currently know the exact number of class  
23          members, Plaintiff is informed and believes that the actual number of class members exceeds  
24          the minimum number required for numerosity under California law.

25          15.   Common questions of law and fact exist as to all class members and predominate  
26          over any questions which only affect individual class members, including, but not limited to:

27                A.   Whether Section 11(A) of the Wage Order requires Defendants to count  
28                recorded meal periods that are less than 30 minutes as "time worked" for

**Shortened Meal Period Class members?**

- B. Whether Labor Code § 226.7(b) requires Defendants to pay premium wages to **Shortened Meal Period Class** members for recorded meal periods of less than 30 minutes?
- C. Whether Defendants failed to include commissions and non-discretionary bonuses in calculating regular rates of pay when paying overtime wages to **Overtime Wage Rate Class** members?
- D. Whether Defendants are required to include commissions and non-discretionary bonuses in calculating the "regular rate of compensation" under Labor Code § 226.7(b) when paying premium wages to **Premium Wage Rate Class** members?
- E. Whether Defendants may have acquired money or property by means of unfair competition in the forms of earned minimum, overtime, and/or premium wages from **Shortened Meal Period Class** and **Premium Wage Rate Class** members?
- F. Whether Defendants willfully failed to timely pay earned and unpaid wages to **Waiting Time Penalties Class** members?
- G. Whether Defendants knowingly and intentionally failed to provide **Wage Statement Penalties Class** members with accurate wage statements?

16. Plaintiff's claims are typical of the other class members' claims. Plaintiff is informed and believes that Defendants have policies or practices of failing to comply with the Labor Code, Wage Order, and Business and Professions Code as alleged herein.

17. Plaintiff will fairly and adequately represent and protect the interests of class members in that he has no interests adverse to those of absent class members and is represented by counsel with experience in employment and class action litigation.

18. A class action is vastly superior to other available means for fair and efficient adjudication of the class members' claims and would be beneficial to the parties and the Court. Class action treatment will allow a number of similarly situated persons to simultaneously and

1 efficiently prosecute their common claims in a single forum without the unnecessary duplication  
2 of effort and expense that numerous individual actions would entail. In addition, the monetary  
3 amounts due to many individual class members are likely to be relatively small and would thus  
4 make it difficult, if not impossible, for individual class members to both seek and obtain relief.  
5 Moreover, a class action will serve an important public interest by permitting class members to  
6 effectively pursue the recovery of moneys owed to them. Further, a class action will prevent the  
7 potential for inconsistent or contradictory judgments inherent in individual litigation.

8 **FIRST CAUSE OF ACTION**

9 **UNFAIR COMPETITION**

10 **(Bus. & Prof. Code §§ 17200, *et seq.*)**

11 **(By Plaintiff, the Shortened Meal Period Class, the Overtime Wage Rate Class,**  
12 **and the Premium Wage Rate Class)**

13 19. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

14 20. Business and Professions Code § 17200 defines "unfair competition" to include  
15 any unlawful business practice.

16 21. Business and Professions Code §§ 17203–17204 allow a person who has lost  
17 money or property as a result of unfair competition to bring a class action in accordance with  
18 Code of Civil Procedure § 382 to recover money or property that may have been acquired from  
19 similarly situated persons by means of unfair competition.

20 ***Shortened Meal Period Class***

21 22. At all relevant times, Plaintiff and Shortened Meal Period Class members have  
22 been non-exempt employees of Defendants and entitled to the full protections of both the Labor  
23 Code and the Wage Order.

24 23. Labor Code § 204 requires employers to timely pay earned wages to their  
25 employees for all labor that their employees normally perform by no later than the regularly  
26 scheduled payday for that pay period and for all labor in excess of that which their employees  
27 normally perform by no later than the regularly scheduled payday for the next pay period.

28 24. Labor Code §§ 223, 510, 1194, 1197, and 1198, and Sections 3 and 4 of the

1 Wage Order require an employer to pay a non-exempt employee no less than minimum wage  
2 for all hours worked, no less than one and one-half times the employee's regular rate of pay for  
3 all hours worked in excess of 8 hours in one workday, in excess of 40 hours in one workweek,  
4 and for the first 8 hours worked on a seventh consecutive workday, and at no less than twice the  
5 employee's regular rate of pay for all hours worked in excess of 12 hours in a workday and/or in  
6 excess of 8 hours on a seventh consecutive workday.

7 ///

8 25. Labor Code § 512 and Section 11 of the Wage Order both require employers to  
9 provide their employees with meal periods of no less than 30 minutes for each work period of 5  
10 or more hours, including two meal periods of no less than 30 minutes for each work period of  
11 more than 10 hours.

12 26. In relevant part, Section 11(C) of the Wage Order states, "Unless [an] employee  
13 is relieved of all duty during a 30 minute meal period, the meal period shall be considered an  
14 "on duty" meal period and counted as time worked."

15 27. Both Labor Code § 226.7 and Section 11 of the Wage Order require an employer  
16 to pay a non-exempt employee an additional hour of wages at the employee's regular rate of  
17 compensation on each workday that the employee is not provided with a required meal period in  
18 violation of the Wage Order.

19 28. At all relevant times, and in violation of the above-referenced sections of the  
20 Labor Code and the Wage Order, Plaintiff recorded meal periods of less than 30 minutes  
21 without being paid minimum and/or overtime wages for the time they were clocked out from  
22 work on those workdays and without being paid premium wages on those workdays.

23 29. Plaintiff is informed and believes that, at all relevant times, and in violation of  
24 the above-referenced sections of the Labor Code and the Wage Order, **Shortened Meal Period**  
25 **Class** members recorded meal periods of less than 30 minutes without being paid minimum  
26 and/or overtime wages for the time they were clocked out from work on those workdays and  
27 without being paid premium wages on those workdays.

28 ***Overtime Wage Rate Class & Premium Wage Rate Class***

36. Pursuant to Code of Civil Procedure § 1021.5, the substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of himself, the **Shortened Meal Period**

1 **Class, Overtime Wage Rate Class, and the Premium Wage Rate Class, seeks awards of**  
2 **reasonable costs and attorneys' fees in amounts subject to proof.**

3 **SECOND CAUSE OF ACTION**

4 **FAILURE TO PAY MINIMUM AND OVERTIME WAGES**

5 **(Lab. Code §§ 1194 and 1194.2)**

6 **(By Plaintiff, the Shortened Meal Period Class, and the Overtime Wage Rate Class)**

7 37. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

8 38. Pursuant to Labor Code §§ 1194 and 1194.2, Plaintiff, on behalf of himself, the  
9 **Shortened Meal Period Class, and the Overtime Wage Rate Class, seeks to recover earned**  
10 **and unpaid minimum and overtime wages, interest thereon, liquidated damages, and awards of**  
11 **reasonable costs and attorneys' fees, all in amounts subject to proof.**

12 **THIRD CAUSE OF ACTION**

13 **WAITING TIME PENALTIES**

14 **(Lab. Code § 203)**

15 **(By Plaintiff and the Waiting Time Penalties Class)**

16 39. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

17 40. Labor Code § 201 provides that all of the earned and unpaid wages of an  
18 employee who is discharged become due and payable immediately at the time of discharge.

19 41. Labor Code § 202 provides that all of the earned and unpaid wages of an  
20 employee who quits become due and payable at the time of quitting if the employee gives at  
21 least 72-hours notice before quitting, or within 72 hours of quitting if the employee gives less  
22 than 72-hours notice before quitting.

23 42. Defendants failed to timely pay Plaintiff earned and unpaid minimum, overtime,  
24 and premium wages after he was discharged in violation of Labor Code § 201.

25 43. Plaintiff is informed and believes that Defendants have failed to timely pay  
26 **Waiting Time Penalties Class** members earned and unpaid minimum, overtime, and/or  
27 premium wages after quitting or discharge in violation of Labor Code § 201 or § 202.

28 44. Labor Code § 203 provides that the wages of an employee shall continue as a

1 penalty from the due date until the wages are paid for up to 30 days where an employer willfully  
2 fails to timely pay any amount of earned and unpaid wages in violation of California Labor  
3 Code § 201 or § 202.

4 45. Plaintiff is informed and believes that Defendants' failures to pay minimum,  
5 overtime, and/or premium wages to him and **Waiting Time Penalties Class** members have  
6 been willful in that Defendants have the ability to pay said wages in conformity with the Labor  
7 Code and the Wage Order but have deliberately adopted payroll policies and practices that are  
8 inconsistent with those requirements.

9 46. Pursuant to Labor Code § 203, Plaintiff, on behalf of himself and the **Waiting**  
10 **Time Penalties Class**, seeks to recover up to 30 days of waiting time penalties per employee in  
11 amounts subject to proof.

12 **FOURTH CAUSE OF ACTION**  
13 **WAGE STATEMENT PENALTIES**  
14 **(Lab. Code § 226)**

15 **(By Plaintiff and the Wage Statement Penalties Class)**

16 47. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

17 48. Pursuant to Labor Code § 226(a), Defendants have been obliged to provide  
18 Plaintiff and **Wage Statement Penalties Class** members, either semimonthly or at the time of  
19 each payment of wages, accurate itemized statement showing, among other things, all  
20 applicable hourly rates of pay in effect during the pay period, their corresponding number of  
21 hours worked at each applicable rate, and gross and net wages earned.

22 49. By failing to pay minimum, overtime, and premium wages to Plaintiff as set  
23 forth above, Defendants have furnished him with written wage statements that do not accurately  
24 reflect all of his applicable rates of pay, hours worked, corresponding wages earned at each  
25 applicable rate, and amounts of gross and net wages.

26 50. Plaintiff is informed and believes that by failing to pay minimum, overtime,  
27 and/or premium wages to **Wage Statement Penalties Class** members as set forth above,  
28 Defendants have furnished them with written wage statements that do not accurately reflect all



1 of their applicable rates of pay, hours worked, corresponding wages earned at each applicable  
2 rate, and amounts of gross and net wages.

3 51. Plaintiff is informed and believes that Defendants' failures to provide him and  
4 **Wage Statement Penalties Class** members with accurate wage statements have been  
5 intentional, in that Defendants have, at all relevant times, had the ability to provide them with  
6 accurate wage statements but, instead, have intentionally provided them with inaccurate wage  
7 statements as a result of not correctly calculating their applicable rates of pay, hours worked,  
8 corresponding wages earned at each applicable rate, and amounts of gross and net wages.

9 52. Plaintiff and **Wage Statement Penalties Class** members have suffered injuries  
10 due to Defendants' failures to provide them with accurate written wage statements. Their legal  
11 rights to receive accurate wage statements have been violated and they have been misled about  
12 the rates at which their wages are to be paid and the amounts of wages they have been paid. In  
13 addition, the absence of accurate information has prevented immediate challenges to allegedly  
14 unlawful pay practices, has required discovery and mathematical computations to determine the  
15 amount of wages owed, has caused difficulty and expense in attempting to reconstruct time and  
16 pay records, and/or has caused inaccurate information about wages and wage deductions to be  
17 submitted to government agencies.

18 53. Pursuant to Labor Code § 226(e), Plaintiff, on behalf of himself and the **Wage**  
19 **Statement Penalties Class**, seeks to recover the greater of actual damages or \$50 for the initial  
20 pay period in which a § 226(a) violation occurred, the greater of actual damages or \$100 for  
21 each violation of Labor Code Section 226(a) in a subsequent pay period, up to the greater of  
22 actual damages or a aggregate \$4,000 penalty per class member, as well as awards of reasonable  
23 attorneys' fees and costs, all in amounts subject to proof.

24 **SIXTH CAUSE OF ACTION**

25 **CIVIL PENALTIES**

26 **(Lab. Code §§ 2698, *et seq.*)**

27 54. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

28 55. During the applicable limitations period, Defendants have violated Labor Code



1 §§ 201, 202, 203, 204, 223, 226(a), 226.7, 510, 512, 1194, 1197, and 1198.

2 56. Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of  
3 herself and other current and former employees, to bring a representative civil action to recover  
4 civil penalties pursuant to the procedures specified in Labor Code § 2699.3 that may, but need  
5 not, be brought or maintained as a class action pursuant to Code of Civil Procedure § 382.

6 57. Plaintiff, as a former employee against whom Defendants committed one or  
7 more of the alleged Labor Code violations during the applicable limitations period, is an  
8 aggrieved employee within the meaning of Labor Code § 2699(c).

9 58. Plaintiff has complied with the procedures for bringing suit specified in Labor  
10 Code § 2699.3. By letter dated March 28, 2011, Plaintiff gave written notice via certified mail  
11 to the Labor and Workforce Development Agency ("LWDA") and Defendants of the specific  
12 provisions of the Labor Code alleged to have been violated, including the facts and theories to  
13 support the alleged violations. More than 33 days have passed since the date of Plaintiff's letter  
14 and the LWDA has not informed Plaintiff that it intends to investigate the alleged violations.

15 *Failures to Provide Suitable Seats*

16 59. In addition to the violations of the Labor Code set forth above, Defendants have  
17 also violated Labor Code § 1198, which prohibits the employment of persons under conditions  
18 that violate the Wage Order.

19 60. Specifically, Section 14 of the Wage Order provides,

20 (A) All working employees shall be provided with suitable seats when the  
21 nature of the work reasonably permits the use of seats.

22 (B) When employees are not engaged in the active duties of their  
23 employment and the nature of the work requires standing, an adequate  
24 number of suitable seats shall be placed in reasonable proximity to the  
25 work area and employees shall be permitted to use such seats when it does  
26 not interfere with the performance of their duties.

26 61. At all relevant times during his employment, Defendants did not provide Plaintiff  
27 with suitable seats when he performed job duties that allowed for the use of such seats, such as  
28 operating a cash register, did not place an adequate number of suitable seats within a reasonable

1 proximity to his work area when he performed job duties that required him to stand, such as  
2 cooking, and, in fact, did not permit him to use a seat except during breaks.

3 62. Plaintiff is informed and believes that, at all relevant times, Defendants have not  
4 provide other aggrieved employees with suitable seats when they have performed job duties that  
5 allow for the use of such seats, such as operating cash registers, have not placed an adequate  
6 number of suitable seats within a reasonable proximity to their work areas when they have  
7 performed job duties that have required them to stand, such as cooking, and, in fact, have not  
8 permitted them to use seats except during breaks.

9 ***Civil Penalties Sought Based on All Alleged Labor Code Violations***

10 63. Pursuant to Labor Code §§ 2699(a) and (f), Plaintiff seeks the following civil  
11 penalties for Defendants' violations of Labor Code §§, 201, 202, 203, 204, 223, 226(a), 226.7,  
12 510, 512, 1194, 1197, and 1198:

- 13 A. For violations of Labor Code §§ 201, 202, 203, 226.7, 1194, and 1198,  
14 \$100 for each employee per pay period for each initial violation and \$200  
15 for each employee per pay period for each subsequent violation (penalties  
16 set by Labor Code § 2699(f)(2));
- 17 B. For violations of Labor Code § 204, \$100 for each employee for each  
18 initial violation that was neither willful nor intentional, \$200 for each  
19 employee, plus 25% of the amount unlawfully withheld from each  
20 employee, for each initial violation that was either willful or intentional,  
21 and \$200 for each employee, plus 25% of the amount unlawfully  
22 withheld from each employee, for each subsequent violation, regardless  
23 of whether the subsequent violation was either willful or intentional  
24 (penalties set by Labor Code § 210);
- 25 C. For violations of Labor Code § 223, \$100 for each employee for each  
26 initial violation that was neither willful nor intentional, \$200 for each  
27 employee, plus 25% of the amount unlawfully withheld from each  
28 employee, for each initial violation that was either willful or intentional,

1 and \$200 for each employee, plus 25% of the amount unlawfully  
2 withheld from each employee, for each subsequent violation, regardless  
3 of whether the subsequent violation was either willful or intentional  
4 (penalties set by Labor Code § 225.5);

5 D. For violations of Labor Code § 226(a), if this action is deemed to be an  
6 initial citation, \$250 for each employee for each violation. Alternatively,  
7 if an initial citation or its equivalent occurred before the filing of this  
8 action, \$1,000 for each employee for each violation (penalties set by  
9 Labor Code § 226.3);

10 E. For violations of Labor Code §§ 510 and 512, \$50 for each employee for  
11 each initial pay period for which the employee was underpaid, and \$100  
12 for each employee for each subsequent pay period for which the  
13 employee was underpaid (penalties set by Labor Code § 558); and

14 F. For violations of Labor Code § 1197, \$100 for each aggrieved employee  
15 for each initial violation of Labor Code § 1197 that was intentional, and  
16 \$250 for each aggrieved employee per pay period for each subsequent  
17 violation of § 1197, regardless of whether the initial violation was  
18 intentional (penalties set by Labor Code § 1197.1).

19 64. Pursuant to Labor Code § 2699(g), Plaintiff seeks awards of reasonable costs and  
20 attorneys' fees in connection with his claims for civil penalties.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated, and as an  
23 "aggrieved employee" on behalf of other "aggrieved employees," prays for relief and judgment  
24 against Defendants as follows:

- 25 A. An order that the action be certified as a class action;  
26 B. An order that Plaintiff be appointed class representative;  
27 C. An order that counsel for Plaintiff be appointed class counsel;  
28 D. Damages;

- 1 E. Restitution;
- 2 F. Declaratory relief;
- 3 G. Injunctive relief;
- 4 H. Civil penalties;
- 5 I. Statutory penalties;
- 6 J. Pre-judgment interest;
- 7 K. Costs of suit;
- 8 L. Reasonable attorney's fees; and
- 9 M. Such other relief as the Court deems just and proper.

10 **DEMAND FOR JURY TRIAL**

11 Plaintiff, on behalf of himself and all others similarly situated, and as an "aggrieved  
12 employee" on behalf of other "aggrieved employees," hereby demands a jury trial on all issues  
13 so triable.

14 Respectfully submitted,

15 LAW OFFICES OF SHAUN SETAREH  
16 THE SPIVAK LAW FIRM  
17 LAW OFFICES OF LOUIS BENOWITZ

18 Dated: May 5, 2011

19 BY

20   
21 SHAUN SETAREH  
22 Attorneys for Plaintiff  
23 RALF SINGH-BISCHOPBERGER  
24  
25  
26  
27  
28

**PROOF OF SERVICE**

State of California,  
County of Los Angeles

1. I am a citizen of the United States and am employed in the County of Los Angeles, State of California. I am over the age of 18 years, and not a party to the within action. My business address is 9454 Wilshire Blvd., PH 1, Beverly Hills, California 90212.

2. I am familiar with the practice of the Law Office of Shaun Setareh, for collection and processing of correspondence for mailing with the United States Postal Service. It is the practice that correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On Tuesday, June 21, 2011, I served the foregoing document described as **PLAINTIFF'S FIRST AMENDED COMPLAINT** on interested parties by placing a true and correct copy thereof enclosed in a sealed envelope, with postage fully prepaid, addressed as follows:

**SEE ATTACHED SERVICE LIST**

XXXX (BY MAIL) I caused such an envelope to be mailed by placing it for collection and mailing, in the course of ordinary business practice, with other correspondence of the Law Office of Shaun Setareh, 9454 Wilshire Boulevard, PH 1, Beverly Hills, California 90212.

       (BY PERSONAL SERVICE) My agent delivered such envelope by hand to the home/offices of the addressee.

EXECUTED on Tuesday, June 21, 2011, at Beverly Hills, California.

XXXX (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

       (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

  
ASHLEY GREEN

SERVICE LIST

Andrew Livingston  
Orrick, Herrington & Sutcliffe LLP  
405 Howard Street  
San Francisco, CA 94105-2669

Sur La Table, Inc.  
c/o Business Filings Incorporated  
Leslie Fuller  
1232 Q Street, First Floor  
Sacramento, CA 95811

1 Shaun Setareh (SBN 204514)  
2 setarehlaw@sbcglobal.net  
3 Hayley Schwartzkopf (SBN 265131)  
4 hayley.setarehlaw@sbcglobal.net  
5 LAW OFFICES OF SHAUN SETAREH  
6 9454 Wilshire Boulevard, Penthouse Floor  
7 Beverly Hills, California 90212  
8 Tel: (310) 888-7771, Fax: (310) 888-0109  
9 (Additional Counsel on Following Page)

10 Attorneys for Plaintiff,  
11 RALF SINGH-BISCHOFBERGER

12  
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14  
15 FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT  
16 (UNLIMITED JURISDICTION)

17 RALF SINGH-BISCHOFBERGER, on )  
18 behalf of himself and all others similarly )  
19 situated, and as an “aggrieved employee” on )  
20 behalf of other “aggrieved employees” under )  
21 the Labor Code Private Attorneys General )  
22 Act of 2004, )

23 Plaintiff,

24 vs.

25 SUR LA TABLE, INC., a Washington )  
26 corporation; and DOES 1-50, inclusive, )  
27 )  
28 )

Defendants.

Case No. BC 461167

NOTICE OF NON-COMPLEX  
DESIGNATION

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

JUN 13 2011

John A. Clark, Executive Officer/Clerk  
By Gloryetta Robinson Deputy  
GLORYETTA ROBINSON

**ADDITIONAL COUNSEL FOR PLAINTIFF**

David Spivak (SBN 179684)  
david@spivaklaw.com  
THE SPIVAK LAW FIRM  
9454 Wilshire Boulevard, Suite 303  
Beverly Hills, California 90212  
Tel: (310) 499-4730, Fax: (310) 499-4739

Louis Benowitz (SBN 262300)  
louis@benowitzlaw.com  
LAW OFFICES OF LOUIS BENOWITZ  
9454 Wilshire Boulevard, Penthouse Floor  
Beverly Hills, California 90212  
Tel: (310) 888-7771, Fax: (310) 888-0109



**TO EACH PARTY AND EACH ATTORNEY OF RECORD IN THIS ACTION:**


Please take notice that the above titled action has been designated as non-complex. In addition, please take notice that the case has been reassigned from the Honorable Emilie H. Elias of Department 324 of the Los Angeles County Superior Court to the Honorable Richard Fruin of Department 15 of the Los Angeles County Superior Court.

A copy of the Nature of the Proceedings is attached hereto as Exhibit A.

LAW OFFICES OF SHAUN SETAREH  
THE SPIVAK LAW FIRM  
LAW OFFICES OF LOUIS BENOWITZ

Dated: June 10, 2011

BY

  
SHAUN SETAREH, Attorneys for Plaintiffs,  
RALF SINGH-BISCHOFBERGER, and all  
others similarly situated

**PROOF OF SERVICE**

State of California,  
County of Los Angeles

1. I am a citizen of the United States and am employed in the County of Los Angeles, State of California. I am over the age of 18 years, and not a party to the within action. My business address is 9454 Wilshire Boulevard, PH, Beverly Hills, CA 90212.

2. I am familiar with the practice of the Law Office of Shaun Setareh for collection and processing of correspondence for mailing with the United States Postal Service. It is the practice that correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

3. On the 10th day of June, 2011, I served the foregoing document described as:

**NOTICE OF NON-COMPLEX DESIGNATION**


on interested parties by placing a true and correct copy thereof enclosed in a sealed envelope, with postage fully prepaid, addressed as follows:

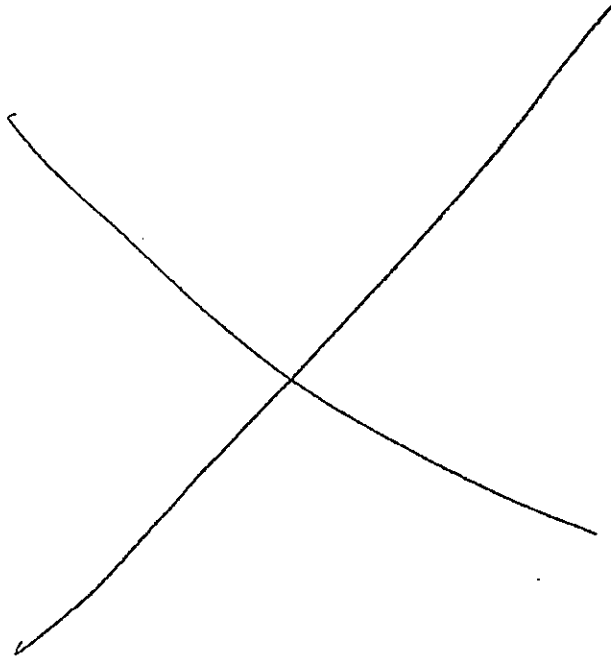
Sur La Table, Inc.  
c/o Business Filings Incorporated  
1232 Q Street, First Floor  
Sacramento, CA 95811

XXXX (BY MAIL) I caused such an envelope to be mailed by placing it for collection and mailing, in the course of ordinary business practice, with other correspondence of the Law Offices of Shaun Setareh, 9454 Wilshire Boulevard, Penthouse Floor, Beverly Hills, CA 90212.

EXECUTED on the 10th day of June, 2011, at Beverly Hills, California.

XXXX (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

  
\_\_\_\_\_  
Ashley Green



# **EXHIBIT A**

06/15/11

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

DATE: 05/25/11

DEPT. 324

HONORABLE EMILIE H. ELIAS

JUDGE A. MORALES

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

NONE

Deputy Sheriff

NONE

Reporter

8:30 am

BC461167

Plaintiff

Counsel

RALE SINGH-BISCHOFBERGER

NO APPEARANCES

VS

Defendant

SUR LA TABLE INC

Counsel

NON-COMPLEX (05-25-11)

**NATURE OF PROCEEDINGS:**

**COURT ORDER**

This Court makes its determination whether or not this case should be deemed complex pursuant to Rule 3.400 of the California Rules of Court.

This case is designated non-complex and is reassigned to Judge Richard Fruin in Department 15 at Stanley Mosk Courthouse for all further proceedings.

Plaintiff is ordered to serve a copy of this minute order on all parties forthwith and file a proof of service in Department 15 within five (5) days of service.

Any party objecting to the non-complex designation must file an objection and proof of service in Department 324 within ten (10) days of service of this minute order. Any response to the objection must be filed in Department 324 within seven (7) days of service of the objection. This Court will make its ruling on the submitted pleadings.

CLERK'S CERTIFICATE OF MAILING/  
NOTICE OF ENTRY OF ORDER

MINUTES ENTERED  
05/25/11  
COUNTY CLERK

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

DATE: 05/25/11

DEPT. 324

HONORABLE EMILIE H. ELIAS

JUDGE A. MORALES

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

NONE

Deputy Sheriff

NONE

Reporter

8:30 am

BC461167

Plaintiff

Counsel

NO APPEARANCES

RALF SINGH-BISCHOFBERGER

VS

Defendant

SUR LA TABLE INC

Counsel

NON-COMPLEX (05-25-11)

**NATURE OF PROCEEDINGS:**

I, the below named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that this date I served Notice of Entry of the above minute order of 05-25-11 upon each party or counsel named below by depositing in the United States mail at the courthouse in Los Angeles, California, one copy of the original entered herein in a separate sealed envelope for each, addressed as shown below with the postage thereon fully prepaid.

Date: 05-25-11

John A. Clarke, Executive Officer/Clerk

By:

K. HILAIRE

LAW OFFICES OF SHAUN SETAREH

Shaun Setareh, Esq.

9454 Wilshire Boulevard, Penthouse Floor

Beverly Hills, California 90212

# **EXHIBIT D**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Shaun Setareh, SBN 204514 Law Office of Shaun Setareh 9454 Wilshire Blvd., PH 1 Beverly Hills, CA 90212 TELEPHONE NO.: (310) 888-7771 ATTORNEY FOR (Name): Plaintiff		POS-010 FOR COURT USE ONLY <b>FILED</b> LOS ANGELES SUPERIOR COURT JUN 09 2011 JOHN A. CLARKE, CLERK BY RAUL SANCHEZ DEPUTY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Superior Court of California, Los Angeles County 111 N. Hill Street Los Angeles, CA 90012-3117			
PLAINTIFF/PETITIONER: Ralf Singh-Bischofberger, et al. DEFENDANT/RESPONDENT: Sur La Table, Inc., et al.		CASE NUMBER: BC461167 <b>D324</b>	
<b>PROOF OF SERVICE OF SUMMONS</b>		Ref. No. or File No.: Sur La Table <b>D-15</b>	

- At the time of service I was a citizen of the United States, at least 18 years of age and not a party to this action.
- I served copies of: Summons, Complaint, Civil Case Cover Sheet, Civil Case Cover Sheet Addendum, Voluntary Efficient Litigation Stipulations
- Party served: Sur La Table, Inc., a Washington corporation
  - Person Served: Business Filings Incorporated, Leslie Fuller - Person authorized to accept service of process
- Address where the party was served: 1232 Q St., 1st Floor  
Sacramento, CA 95811
- I served the party
  - by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) or (date): 6/1/2011 (2) at (time): 12:51 PM
- The "Notice to the Person Served" (on the summons) was completed as follows:
  - on behalf of:

Sur La Table, Inc., a Washington corporation

under: CCP 416.10 (corporation)

**7. Person who served papers**

- Name: Jermaine deJose
- Address: One Legal - 194-Marin  
504 Redwood Blvd #223  
Novato, CA 94947  
415-491-0606
- Telephone number: 415-491-0606
- The fee for service was: \$ 62.00
- I am:
  - (3) registered California process server.
  - (i) Employee or independent contractor.
  - (ii) Registration No.: 2008-47
  - (iii) County SACRAMENTO

**BY FAX**

- I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.  
Date: 6/1/2011

Jermaine deJose

(NAME OF PERSON WHO SERVED PAPERS)

(SIGNATURE)

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Dale S. Fischer and the assigned discovery Magistrate Judge is Frederick F. Mumm.

The case number on all documents filed with the Court should read as follows:

**CV11- 5495 DSF (FFMx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

☒ **Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

☐ **Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

☐ **Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.



UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> RALF SINGH-BISCHOFBERGER		<b>DEFENDANTS</b> SUR LA TABLE, INC.																									
<b>(b) Attorneys</b> (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Shaun Setareh; Hayley Schwartzkopf, LAW OFFICES OF SHAUN SETAREY 9454 Wilshire Boulevard, Penthouse Floor, Beverly Hills, CA 90212 Tel: (310) 888-7771; Fax: (310) 888-0109		<b>Attorneys (If Known)</b> Patricia K. Gillette; Andrew R. Livingston; Brooke D. Arena; Aubry Holland ORRICK, HERRINGTON & SUTCLIFFE, LLP 405 Howard Street, San Francisco, CA 94105 Tel: (415) 773-5700; Fax: (415) 773-5759																									
<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)  <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)		<b>III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only</b> (Place an X in one box for plaintiff and one for defendant.) <table border="1" style="width:100%"><thead><tr><th></th><th>PTF</th><th>DEF</th><th></th><th>PTF</th><th>DEF</th></tr></thead><tbody><tr><td>Citizen of This State</td><td><input checked="" type="checkbox"/> 1</td><td><input type="checkbox"/> 1</td><td>Incorporated or Principal Place of Business in this State</td><td><input type="checkbox"/> 4</td><td><input type="checkbox"/> 4</td></tr><tr><td>Citizen of Another State</td><td><input type="checkbox"/> 2</td><td><input type="checkbox"/> 2</td><td>Incorporated and Principal Place of Business in Another State</td><td><input type="checkbox"/> 5</td><td><input checked="" type="checkbox"/> 5</td></tr><tr><td>Citizen or Subject of a Foreign Country</td><td><input type="checkbox"/> 3</td><td><input type="checkbox"/> 3</td><td>Foreign Nation</td><td><input type="checkbox"/> 6</td><td><input type="checkbox"/> 6</td></tr></tbody></table>			PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																						
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																						
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5																						
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																						
<b>IV. ORIGIN</b> (Place an X in one box only.) <input type="checkbox"/> 1 Original Proceeding <input checked="" type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge																											
<b>V. REQUESTED IN COMPLAINT:</b> JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check 'Yes' only if demanded in complaint.) <b>CLASS ACTION</b> under F.R.C.P. 23: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <b>MONEY DEMANDED IN COMPLAINT:</b> \$																											
<b>VI. CAUSE OF ACTION</b> (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) 28 U.S.C. 9132(d), 1441, 1446, 1453																											
<b>VII. NATURE OF SUIT</b> (Place an X in one box only.) <table border="1" style="width:100%"><tr><td><b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes</td><td><b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment &amp; Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease &amp; Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property</td><td><b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel &amp; Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions</td><td><b>TORTS</b> <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage-Product Liability <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights</td><td><b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food &amp; Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. &amp; Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other</td><td><b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting &amp; Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input checked="" type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609</td></tr></table>				<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>TORTS</b> <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage-Product Liability <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input checked="" type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609																		
<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>TORTS</b> <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage-Product Liability <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input checked="" type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609																						

LACV11-5495

FOR OFFICE USE ONLY: Case Number:

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEETVIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes  
If yes, list case number(s): \_\_\_\_\_VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes  
If yes, list case number(s): \_\_\_\_\_

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply)
- ☐
- A. Arise from the same or closely related transactions, happenings, or events; or
- 
- ☐
- B. Call for determination of the same or substantially related or similar questions of law and fact; or
- 
- ☐
- C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- 
- ☐
- D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
- 
- ☐
- Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Defendant is informed and believes it is: County of Los Angeles	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
- 
- ☐
- Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Washington

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
- 
- Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved.

X. SIGNATURE OF ATTORNEY (OR PRO PER):

Date 7/1/2011

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))